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In The

United States Court of Appeals

FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,
Appellee,

against

ALGER HISS,
Appellant.

TRANSCRIPT OF RECORD

Volume V

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

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have said and written an awful lot, and I may have said that. You probably know that I have.

Q. Now, Doctor, when you started to describe the different symptoms of a person with a psychopathic personality you ran through 12 or so, and you said chronic, persistent and repetitive lying; stealing, deception; alcholism and drug addiction; abnormal sexuality; vagabondage; panhandling. For our purposes, Doctor, we can eliminate immediately three of those, can't we—drug addiction, alcholism and sexual abnormality? There is nothing in the hypothetical question that you have that even touches on any of those? A. That is right.

Q. Right. So that we have—the first one I think you talked about when you started to outline the characteristics was the lying, the repetitive lying pattern. Doctor, let me ask you, do people who lie necessarily give to a psychiatrist a symptom of a psychopathic personality just by lying?

A. Well, I have a case in mind of a patient—

Q. I have a number, too. But can you tell me generally, Doctor, whether people who lie, just that abstract thing, people who lie, would that indicate [3761] to a trained psychiatrist that that person has one of the symptoms of a psychopatic personality? A. Obviously not one lie, but a history of repetitive lying over 25 years or so would be evidence in the direction of that diagnosis.

Q. In other words, one lie by itself would mean nothing to you as a trained psychiatrist?

A. Isolated lie, isolated any event would mean nothing.

Q. Any event would mean nothing? A. If it were isolated from the rest of the behavior.

Q. Let us suppose an occasional lie to your wife. A. Pardon?

Q. What would that indicate, Doctor, an occasional lie to your wife as to whether you actually worked that night or didn't. A. What would that indicate?

Q. Would it indicate a symptom of a psychopathic personality? A. I wouldn't say so.

Q. You wouldn't think so? A. No.

Q. Let us suppose, Doctor, a taxpayer lied a little bit in his income tax return on his contributions or expenses. What do you think that would indicate? A symptom of psychopathic personality? A. It could; not necessarily.

Q. It could. It could indicate a symptom?

A. It could indicate a symptom. There would be an awful lot of psychopaths if that were the criterion.

Q. Supposing, Doctor, you were stopped by a policeman [3762] who said that you were speeding; you told him that you had a hurry call for a patient, had to get there by a certain time, and you lied a little bit and you ended up with no ticket, no ticket. Would that indicate a symptom of a psychopathic personality?

A. Certainly not.

Q. Well, let us suppose that some of us tell our children that there is a Santa Claus and continue that statement to children over a period of years until they are adolescent. Would you say that that indicates on the part of the parents a symptom of psychopathic personality?

A. No, I wouldn't.

Q. Would you say that telling the children for many, many years that the stork brings the baby—would that indicate that the parent perhaps was manifesting a symptom of psychopathic personality?

A. Well, if the parents believed it I would think it might.

[3763] Q. You think if a parent told his child that the child was brought by a stork, and that that parent, talking to his or her child, believed it, that that would be only a psychopathic personality symptom? A. Oh no; it would be a symptom of much else.

Q. You said it. I am talking, Doctor, about psychopathic personalities, and I am trying to develop what you mean when you talk about the symptom of lying; and doesn't it come down to this, Doctor, that if there is a purpose for the lying, good or bad, but if there is a purpose, that it is not a symptom at all? A. Not at all.

Q. Not at all? A. No. Psychopaths usually have a purpose when they lie.

Q. Yes, but is it a real purpose? A. Well, it may be a real purpose; it may be a fantasy; it may be very real; it may be to accomplish the destruction of somebody or some thing.

Q. Well, tell us, Doctor, the purpose of a parent telling a child that Santa Claus comes at Christmas—why is that not a psychopatic symptom? The parent has a purpose. A. That is an accepted piece of folk mythology, and parents simply take on what is traditional; it has no malign purpose.

Q. It has no malign purpose? A. No.

Q. The purpose has to be malign in order to come within [3764] a psychopathic personality symptom? A. It does not have to be. It often is.

Q. It often is? How about lying to your wife to avoid an unpleasant argument? A. Pretty normal.

Q. Normal? A. Pretty normal performance.

Q. Some lying is normal, Doctor? A. In the sense of statistically normal, yes. It is undesirable, I think.

Q. But it has a purpose. Doctor, wouldn't you say that lying to your wife rather than to have an argument about something that is inconsequential is not a psychopathic symptom? A. Is not?

Q. Is not. A. Well, you would have to give me the example of what kind of lie and under what circumstances. You don't make a diagnosis on the basis of an isolated episode.

Q. In other words, Doctor, don't you have to know what is behind the reason for the lie in order to form an opinion, as a doctor? A. Unless there is a consistent habit of untruth.

Q. Yes, but consistent with a purpose, Doctor? Let us suppose it is consistent with a purpose. A. That doesn't matter. It doesn't change it.

Q. Let us suppose, Doctor, that you were captured in the last war and you were constantly being plagued in violation of all of the treaties, and asked questions [3765] beyond your name and rank, and so forth, asked where you were stationed, how many men were billeted with you, what you were doing, what the troops were doing, what

they had done last, and so forth, and you consistently told a story of the most outlandish lies for the purpose of deceiving your captors, would you say you were evidencing a symptom of psychopathic personality at that time?

A. No, I would not.

Q. Because you had a definite purpose in lying, isn't that correct, Doctor? A. I was trying to save my—

Q. Not even malign? A. That is right.

Q. But you had a specific purpose in mind, the purpose of deceiving your captors? A. That is right.

Q. And, of course, not disclosing the trust or violating the trust that they had placed in you as an officer; that would not be psychopathic lying? A. It could be but it does not need to be.

Q. It does not need to be? A. No.

Q. Doesn't it help, then, Doctor, in analyzing the symptoms to find out what the specific purpose was in lying so as to learn whether or not it is just the ordinary normal statistical lying, or something else? A. Yes, it would help.

Q. Now, you assumed, Doctor, that when Mr. Chambers lied to Dean Hawkes when he went back to Columbia the second [3766] time that that was a symptom of psychopathic personality, did you not? A. Yes, it was taken into consideration with the letter he wrote to Mark Van Doren in which he said, "I lied quite simply when I told Dean Hawkes." That is, a lie without any feeling of shame or guilt or remorse is more likely to be of this nature, and here he wrote to Mark Van Doren, "I lied quite simply when I told Dean Hawkes," and so forth and so on.

Q. In other words, you thought that was a symptom because, one, it was in writing, and, two, because he used the words "quite simply"? A. Because he seemed to accept it as a perfectly acceptable form of dealing with the Dean of Columbia.

Q. Doctor, you realize, of course, that in the assumed state of facts he had written this letter to a fellow professor—that is, an associate of the Dean; he wrote it to Professor Van Doren who was his faculty adviser; you realize that, of course? A. Yes, I do.

Q. In other words, within a short time after he lied, as he said, quite simply, he reduced his confession to writing and he made it known to his faculty adviser, a man associated in the academic circles with the Dean; you considered those facts, did you not, Doctor, in forming an expert opinion that that was evidence of a symptom of psychopathic personality? A. I do not base my diagnoses [3767] on one lie.

Q. No, but even on that lie, Doctor, you considered those facts, that he was telling it in writing to a fellow professor of the Dean, his faculty adviser? A. I do not assume that Professor Van Doren was an associate of the Dean more than an associate of a student who was his advisee.

Q. Well, Doctor, he was part of the faculty and the Dean was the boss; you will go that far, won't you?

A. I guess that is right, yes.

Q. Now, you don't attach any significance to those facts, do you, in arriving at this conclusion of yours that those were the circumstances under which he made his confession known? A. Well, he did not make a confession. He simply wrote to Van Doren and said, "I lied quite simply to the Dean and that is how I got back in."

Q. And isn't that a confession? He said, "I lied" and he told somebody, his adviser— A. I don't know his relationship to Professor Van Doren. I can't say whether that is a confession or not. It is a statement of fact, I take it.

Q. There was testimony that Professor Van Doren was his faculty adviser, and my question to you is whether you took those facts into consideration in forming an opinion that this statement of fact that he lied quite [3768] simply was evidence of a symptom of psychopathic personality? A. I didn't take that into account.

Q. You didn't take it into consideration? If I asked you to now, would it change your opinion? A. No, it would not. I have been thinking about it while you were talking.

Q. Doctor, assuming that that is the only lie for a period of 20 years that you had evidence of in your hy-

pothetical question—and bear in mind that was in, let us say, 1922—as I remember the hypothetical question there was no evidence of other lies as such for a period of, say, 20 years, would that be a symptom of psychopathic personality, a person who told one lie in 20 years?

A. It depends upon what else he did in those 20 years.

Q. Yes, Doctor, but you were telling the Court and jury about the symptoms of repetitive lying, and you started out with that as an assumed fact in 1922, and then there was a hiatus, an absence of lying for a period of 20 years; could you honestly, Doctor, as a skilled psychiatrist tell the jury that that was evidence of repetitive lying—to use that phrase—repetitive lying? A. Obviously one lie can't be evidence of repetitive lying.

Q. Of course not. Assuming, Doctor, that within a very short time he wrote another letter to the professor and the professor's wife, wrote a letter jointly—

[3769] A. To Van Doren?

Q. Professor Van Doren and Professor Van Doren's wife, and he said that he joined the Communist Party on February 15, 1925; put that in writing, in the year 1925; would you say that that fact was evidence of a man who had some psychopathic personality at that time? In other words, to frankly admit in writing in the 20s that he joined the Communist Party? A. That seems to me to have no bearing.

Q. No bearing at all? A. No.

Q. In other words, a person who frankly tells his former faculty adviser that he has joined the Communist Party in writing— A. In 1925?

Q. Yes. —has no bearing at all on your sum total of facts? A. Not at that time. It might be different now.

Q. Wouldn't it be some evidence of his non-lying proclivities? A. Well, if it was truthful and he—

Q. Well, we are assuming, Doctor, that it was truthful. You have assumed things to be truthful. Let us assume that that is truthful. Wouldn't it sort of balance the other in some way? Here is a man who writes a letter to his faculty adviser and says, "I lied quite simply to the

Dean; I told him that I was coming back to school because I wanted to teach history; actually all I want to do is study it''; and then a little while later he writes to the [3770] Dean and says, ''I am out and I have joined the C.P.''?

A. Writes the Dean?

Q. Writes his faculty adviser, rather, and says, ''I have joined the Communist Party''—wouldn't one sort of wash out the other, Doctor, in your mind as a trained psychiatrist? A. They seem to me to have nothing to do with each other.

Q. Nothing to do? A. No. I don't know what his relationship with Mr. Van Doren was or what Mr. Van Doren's attitude was.

Q. Well, supposing I said that he addressed the letter as ''Dear Dorothy and Mark,'' would that give you a clue as to the relationship? A. Well, I presume it was one of friendship, then.

Q. That is, a student to a faculty adviser. Wouldn't you venture the opinion, Doctor, that it was a little bit higher in the realm of friendship than most students with their professors? A. Oh, certainly.

Q. And wouldn't you say, Doctor, too, that each of the letters would be an indication of a complete frankness, complete frankness on the part of Mr. Chambers? A. With the Van Dorens?

Q. With the Van Dorens. A. In so far as I know it it sounds like a frank statement.

Q. Now, in his application for a passport, Doctor, in [3771] the name of Breen, if you knew that he made that application—if you assumed that he made that application to the State Department pursuant to orders as a soldier in the Communist Party, would you say that that would be evidence or a symptom of psychopathic personality? A. I would say it was evidence of a lie.

Q. We are trying to find out whether it was a lie that you could use, as a trained psychiatrist, to express an opinion that the man was a psychopathic personality.

A. My opinion is based, as I have said repeatedly, on a whole life pattern as far as I know it.

Q. Doctor, what we are now trying to show to this jury is that your opinion is based upon facts which would not give to a psychiatrist that opinion; and I am trying to show, and asking you now, Doctor, where he applied for a false passport as a paid functionary of the Communist Party, using birth certificates supplied to him by his superiors; in other words, he was acting as a soldier in a cause that he believed in, would you say, Doctor, that that would be evidence to you as a trained psychiatrist that there is a symptom of psychopathic personality?

A. It is evidence to me only of another lie or a series of lies.

Q. Doctor, would you in evaluating the lies, if that is the only evidence which was before you, and there were 25 [3772] questions, and each was answered falsely, would you say that that was 25 lies or just one false lie all with relation to a false passport? A. Oh, no, I would group them together around the general idea of the passport.

Q. You would say it was the passport lie?

A. Except one would pay some attention to the extraordinary details of the lie.

Q. Doctor, you know as a fact, don't you, that during the war many, many hundreds of our officers in O.S.S. left this country under false passports and false names; do you know that as a fact, Doctor? A. I believe it to be true.

Q. Why, of course. And when those men applied, on instructions from our Government, to the Passport Division with phony passport material and ended up with a passport in not their own names, what would they be, Doctor? Would they be liars? A. No, they would be loyal American citizens.

Q. And you would not attach any significance at all in analyzing that as a symptom of psychopathic personality for those men, would you? A. Not unless I had a history of lying before and after that event.

Q. Doctor, aren't you willing to admit that you could not consider that a symptom under no circumstances, no circumstances whatever; none? They did it under orders. Doesn't that remove it completely from any symptom?

[3773] A. Are you talking about the O.S.S. or the Communist Party?

Q. The O.S.S. A. I think there is a difference between the O.S.S. and the Communist Party.

Q. Indeed. But I am asking you, if you were called upon to analyze one of these men from the O.S.S., and he was telling you of his experience, and he said he lied when he applied for a passport application when he was being sent over to Italy or Czechoslovakia, you would immediately wash that lie out, wouldn't you?

A. I would want to know what else he had done in his life.

Q. But you would wash that out as being no evidence of a symptom of psychopathic personality? A. Not necessarily. He might have been a very good O.S.S. officer because he was a psychopath.

Q. Doctor, can we just stay on this for a minute longer— A. Yes?

Q. —that you would consider that in your total analysis, your sum total of facts in analyzing an officer who had been in the O.S.S.—you would not dismiss it immediately as having no relevancy at all as to that particular boy's problems? A. I could not dismiss anything immediately. I would try to see how it fitted into his whole life's pattern.

[3774] Q. Assuming he told you that General Donovan said, "Here, this is the passport for you, son; go ahead"; and he did—how long would it take you to dismiss that from your total of facts for that boy? A. Why was the man consulting me or talking to me? I don't want to be pigheaded; I would like to follow your assumptions, but they have to be more complete. What do you want me to assume about this O.S.S. officer? Why did he come to see me?

Q. What I want to know, Doctor, is whether or not that lie would be seriously considered by you as having any relevancy at all, no matter what his problem was, no matter what it was? A. It might have a good deal of relevancy; it might have none.

Q. Now, Doctor, if a paid functionary of the Communist Party did exactly that pursuant to orders, would you also hold it and add it to the sum total of your facts of symptoms? A. Certainly.

Q. You would? A. Yes.

Q. And you think it is evidence that there is some evidence there of a symptom of psychopathic personality?

A. Well, if there is a history of lying both before and after his being a paid functionary and during the time, I think there is evidence; yes.

Q. Doctor, we have so far talked about the lie at Columbia in 1922 when he told the Dean quite simply that [3775] he wanted—

MR. CROSS: 1924 it is.

MR. MURPHY: I am sorry.

Q. —1924, when he told the Dean he was coming back to Columbia because he wanted to teach history, whereas it was because he wanted to study history—

MR. CROSS: That was not in the assumed facts.

Q. (Continuing) Tell us, Doctor, what the assumed facts were with regard to the lying to Dean Hawkes upon which you based your opinion. A. Could that not be read out of the hypothetical question?

Q. Yes, I imagine it could. Tell us what you remember.

A. I remember—I think it was in 1924—when he wanted to get back into Columbia he wrote to Professor Van Doren and said that, "I lied quite simply to the Dean." Whether he actually said, "I wanted to study history" or "teach history" or not, I can't remember whether that was in the question.

MR. MURPHY: May I have the letter, please?

A. (Continuing) And may I say that prior to that, and I have also taken that into consideration although you have not mentioned it, there were several other lies and untruths prior to that.

Q. Yes, Doctor, I am going to total them up for you later. A. Okay.

[3776] Q. Assuming, Doctor, that at one time a man named Earle Browder, who was formerly National Secretary of the Communist Party, obtained a false passport by using a fictitious birth certificate—would you say, Doctor, that that evidenced in Mr. Browder a symptom of psychopathic personality? A. I would have no opinion about Mr. Browder.

Q. Doctor, did you read in the paper in connection with the trial of the 11 Communists that Mr. Foster and Mr. Green and Mr. Winston each used false passports when they left this country? Did you feel that perhaps they each evidenced a symptom of psychopathic personality?

A. I had no opinion about that, as to their psychiatric diagnosis. I have an opinion about their loyalty to this country, but that is another question, I suppose.

Q. Yes, indeed. It has already been passed upon. Now tell us, Doctor, whether or not a specific purpose behind a lie has any relevancy to a doctor's consideration of the question of psychopathic personality? A. It could have.

Q. Did you consider the purpose that Mr. Chambers had as a paid functionary of the Communist Party in getting the false passport in the name of David Breen? A. Surely.

Q. And considering that purpose you came to the conclusion that that was some evidence of a symptom of [3777] psychopathic personality? A. Some additional evidence.

Q. It was some evidence? A. In consideration of the fact that there were lies both before and after, yes; that the habit of lying seemed to be well established.

Q. All right, Doctor. Tell us now from your recollection of the facts what the various lies were from which you now state the habit of lying seems to have been well established. Let us go at them separately. Shall we start with the time he was in his twenties? A. Which one are you referring to?

Q. You tell us; we will fix the age. A. I was thinking of the first one when he graduated from high school when he was asked to read the address at the graduation exercises and he submitted the address to the principal of the high school and the principal disapproved of it—

Q. Are you calling that a lie, Doctor, or is that bizarre conduct? A. Both. If you will let me finish—

Q. Because, as I understand a lie, it is the expression coming out of the mouth or through the hand and writing of something that is not true? A. He gave the principal his word of honor that he would not read this address; he wrote another one—

Q. Doctor, you must have some other form of getting information than the jury and I have here. Where did you find, Doctor, that he gave the Dean or the principal [3778] his word of honor? Where did you pick that up, Doctor?

A. I was mistaken about that. I am sorry I said it.

Q. All right. In other words, Doctor, when he read the class prophecy which he was not supposed to read as a graduating high school student, you classify that both as a lie and as a manifestation of bizarre conduct; is that fair? A. As I understand it, he wrote a prophecy which he was not permitted to read, and he thereupon wrote another one which was acceptable, and instead of reading that one he read the first one. I would regard that as acting out a kind of lie.

Q. Acting out a kind of lie? A. I think it was an act of deception.

Q. An act of deception? A. That is right.

Q. All right, let us start with that one, then, as one of the lies over a long time which patterned this behavior of lying that you told us about. When was the next one which formed this basis of the repetitive lying up to the Breen application? A. The next one was calling himself by a false name when he ran away from home, said that his name was Charles Adams when he was not Charles Adams.

Q. Now, that was the lie—shall we use that as the lie now and take it out of the other classifications that

you put it in in your direct testimony? A. I think it [3779] can fit into several classifications.

Q. Several? Well, give us the several. Under "lying" and what are the others? A. The second change of name was a lie when he came back—

Q. No, we are trying to classify this, Doctor. I am writing these down. You said the use of the name Charles Adams was a lie and it fits into other classifications. What other classifications? A. Well, some of the other classifications I made were deception and the tendency to use aliases and false names.

Q. Do you tell us, Doctor, that the tendency to use aliases or false names is a characteristic of a psychopathic personality? A. It could be, yes.

Q. Well, do you tell us that it is? I mean, you are saying Mr. Chambers used that, and we are talking now about the name Charles Adams, and that is one of the characteristics that you based your opinion on, so I assume that it is in the present tense; it is a characteristic? A. I quoted from William Healey's book in which he calls it one.

Q. By the way, he dealt exclusively with young boys?

A. And girls; adolescents.

Q. Adolescents. Young people? A. This was—

Q. I am trying to find out so that jury will know about Dr. Healey's book. A. That is right.

Q. He was dealing with young adolescents? A. That is [3780] right.

Q. We have here a man of 50 whom you are describing?

A. He wasn't 50 when he ran away from home.

Q. No, but you have no evidence, have you, Doctor, with regard to Mr. Chambers' life, habits, associations—that is, anything up until the time he is 16? A. That is right.

Q. So Dr. Healey's observations are not much help there. Wouldn't a person under 16 be a sort of adolescent? A. Adolescence can go well into the 20s, and furthermore if you will look at Dr. Healey's book you will see

that he deals with the end result of these adolescents he has been talking about.

Q. But you don't have that information with regard to Mr. Chambers? A. No.

Q. Now tell us, Doctor, and let us get these different lies into classifications. We have him giving the class prophecy in violation of what he is supposed to do; and then the use of the name Charles Adams which you have described as a lie and a deception. Any other?

A. I just included the tendency to use aliases.

Q. Tendency to use aliases, all right. A. Which he used both before and after he was a Communist, when there was no apparent need of it.

Q. I was talking, if you recall my question originally, [3781] Doctor,—I was trying to find out the number of lies that you had relied upon which caused you to say that the habit of lying had been well formulated by that time, and we were talking about the time in 1935 when the Breen application was made; and in order to be specific about it we had got, one, the high school incident; two, the use of the name Charles Adams when as a boy after high school he ran away from home—and what is the next?

A. Well, he lied when he said he had not stolen books from the library in Columbia, whereas stolen books were found in his locker and in his home.

Q. Yes, that is three. A. I should say that when he said it was the habit of students to steal as many as 54 books, that was a little stretching of the truth.

Q. How many books did you steal, Doctor, from college?

A. In college?

Q. Yes. A. I wish I could oblige you. I can't remember stealing any. I might have. I can't remember.

Q. You may have? A. I don't think so. I am not in the habit of stealing books, because I have respect for books.

Q. Couldn't you have tremendous respect for books, Doctor, and steal them? A. Yes, you could.

Q. Couldn't you? A. Yes.

Q. So your explanation does not help us very much, [3782] does it? A. It is just that my crime didn't happen to take that form.

Q. All right, Doctor, we will have three examples now of repetitive lying. What other factual basis was there for your statement that the habit of lying had by this time been well formed? A. I think we have four, have we not?

Q. Call it four, if you like. A. I think those are four pretty significant lies.

Q. Would you say that a person who has made those four lies that you have described, evidences a habit of lying? Would you say that, Doctor, as an experienced doctor? A. Well, "habit" may be too strong a word.

MR. MURPHY: Yes, I thought so.

I have run over the usual time for adjournment, your Honor.

THE COURT: We will adjourn until a quarter past two.

(Recess to 2:15 p.m.)

[3783] Afternoon Session

THE COURT: Mr. Ressler, how are you feeling? Better?

JUROR NO. 8: Very well, your Honor.

MR. MURPHY: Your Honor, with your permission and Mr. Cross's consent, this young lady has to go back to Detroit, so we can interrupt; and I think Mr. Cross has a witness out of turn, too.

BURNETTA FISHER, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mrs. Fisher, you live in Detroit, do you not?

A. Yes.

Q. And you are the mother of how many children?

A. Four children.

Q. And your maiden name was Catlett? A. Yes.

Q. Mrs. Clidi Catlett is your mother? A. Yes.

Q. And back in the '30s you were living in Washington, were you not, and brought up in the home of Dr. Easter? A. Yes.

Q. Now did there come a time, Mrs. Fisher, when one of your brothers gave you a typewriter? A. Yes, they did.

Q. Do you remember what you were doing at the time? Were you going to school at the time? A. Yes, I was going [3784] to school.

Q. Was that high school or grade school?

A. Well, I can't remember exactly whether I was in junior high or high school, but I wasn't in grade school.

Q. Were you living at Dr. Easter's house? A. Yes.

Q. And what did you do with the typewriter?

A. Well, I used to type several notebooks for my school work.

Q. Do you remember what subjects you used it in?

A. Well, biology, hygiene, and I think chemistry.

Q. And do you recognize that typewriter here? Is that the typewriter (indicating)? Do you remember the name, by the way? A. No, I don't recall the name. I think it was a Woodstock.

Q. Well, was it an office machine or a portable?

A. It was an office machine.

Q. Did you have it fixed to work it? A. No, I never had it fixed.

Q. And you used it in high school, did you? A. Yes.

Q. And then you moved to Detroit when you got married? A. Yes.

Q. Do you know what you did with the typewriter after that? A. I left the typewriter in the attic of my home in Washington.

[3785] Q. But you did use it for your high school work? A. Yes.

Q. And you never had it repaired? A. No.

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. Mrs. Fisher, when was it your brother gave you the typewriter? A. I don't remember.

Q. Well, were you brought up by Dr. Easter? A. Yes, I was.

Q. That is, since you were a small child? A. From the time I was 18 months old.

Q. And when you said you left the typewriter at home, did you mean in Dr. Easter's home? A. At DDr. Easter's home.

Q. From the time you were eighteen months old up until you got married, did you live with your mother and your brothers? A. No, I never lived with my mother and brothers.

Q. Your relations were friendly with them always, weren't they? A. Yes, yes.

Q. You can't remember how many years before you were married that your brother gave you the typewriter? A. No.

Q. What year were you married? A. 1942.

Q. And that was some time—how many years before you married that the typewriter was given to you?

[3786] A. I don't remember.

Q. Which one of your brothers gave it to you? A. I think it was Pat—Perry.

Q. Perry? A. Yes.

Q. And what use had been made of the typewriter or what had been done to it before you got it of course you don't know? A. I wouldn't know.

MR. CROSS: That is all.

Redirect Examination by Mr. Murphy:

Q. Can you tell us, Mrs. Fisher, about when it was that you were in junior high school or high school? That might help us. A. Well, I was in high school in 1942, and 1941, and 1940.

Q. And then if it was in junior high school, it would have been the year before? A. Three years before then.

Q. You were in junior high school three years? A. Two and a half or three years.

Q. And you can't tell us just when it was? A. No, I can't.

Q. Do you remember using it for biology? A. Yes, I do.

Q. What were the other subjects? A. Chemistry.

Q. Biology, chemistry? Anything else? A. Well, hygiene, I took that the last year.

[3787] MR. MURPHY: All right. Thank you very much.

MR. CROSS: Thank you.

(Witness excused.)

MARGARET McQUEEN, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mrs. McQueen, what was your maiden name? A. Lockey.

Q. Lockey? A. Yes.

Q. And did you live in Washington with your father and mother? A. With my father, yes.

Q. Father. Did there ever come a time when you had a typewriter, Mrs. McQueen? A. Yes.

Q. When was that? A. In 1945.

Q. And do you remember what kind of a typewriter it was? A. A Woodstock.

Q. Woodstock? A. Yes.

Q. An office machine or a portable? A. An office machine.

Q. And who gave it to you? A. My father.

Q. Were you going to school then? A. Yes, I was.

Q. What school? High school was it, or college? A. Dunbar High School.

Q. Dumbarton High School? A. Dunbar High School.

[3788] Q. That is down in Washington, is it? A. Yes.

Q. And did you use the typewriter for your school work at all? A.Yes.

Q. What sort of work did you do on the typewriter? A. I only used it for experience. I was taking typing at that time.

Q. You were learning typing and— A. Yes.

MR. CROSS: (To Mr. Murphy) Tell her to speak up loud.

Q. Can you keep your voice up a little bit? A. Yes.

Q. You were learning to type at the time? A. Yes, I was.

Q. And you were using the typewriter at that time to do your lessons? A. Yes.

Q. Is that the only use you made of the typewriter? A. That is the only use.

Q. How long did you do that; how long did you continue that use, about? A. About a year.

Q. About a year? A. Yes.

Q. And did you learn to type? A. Yes, I did.

Q. Did you have the typewriter repaired? A. No.

Q. Did you do anything with the typewriter in the way of fixing it? A. Well, I cleaned the typewriter and changed the ribbon.

Q. How did you clean it? A. With a toothbrush.

[3789] Q. Toothbrush? A. Yes.

Q. And changed the ribbon? A. Yes.

Q. Did you have any trouble typing with it? A. Yes.

Q. What trouble did you have? A. The keys would stick and the spacing was bad on it.

Q. The keys would stick and the spacing was bad? A. Yes.

Q. What did you do when the keys stuck? A. Well, all I could do was pull the key up.

Q. Pardon? A. Pull the key up.

Q. Pull it up? A. Yes.

THE COURT: (To witness) Would you talk a little louder?

Q. Well, would the keys stick every time you hit a key? A. No, sir, only several keys would stick.

Q. And then when they would stick you would pull the key down or— A. Well, I would pull the key up. I mean, after it sticks you have to pull it up.

Q. Pull it up? A. Yes.

Q. I see. And other than changing the ribbon and cleaning it with a toothbrush, that is all you did with the typewriter? A. Yes, that is right.

Q. Then what happened to the typewriter, as you remember it? A. Well, when I left Washington I took the typewriter back home to my father.

[3790] Q. You weren't living with your father at the time? A. Well, I got married. Then '45, and I got married in '47.

Q. Then when you left Washington you returned the typewriter to your father's house? A. Yes.

Q. And, then, you haven't used it since? A. No, I haven't.

Q. Would you be able to recognize whether this is the typewriter (indicating)? A. Would you mind turning it around?

Q. Not a bit. (Turning typewriter.) Does that look like it? A. Yes, it does.

MR. MURPHY: All right. Thank you. You may examine.

Cross Examination by Mr. Cross:

Q. Mrs. McQueen, is your father's name Ira Lockey? A. Yes, sir, it is.

Q. He was in the transportation business in Washington for several years, was he? A. Transportation business?

Q. Yes, Trucking business. A. Yes.

Q. Hauling. And do you know when he first got the typewriter? A. I can only remember that it was in 1945, and I think it was in the spring.

Q. In the spring of 1945? A. Yes.

[3791] Q. And then you got married when? A. In 1947.

Q. '47. Well, did you take the typewriter—you lived in some other place after you were married?

A. Yes, I did.

Q. Did you take the typewriter with you?

A. Yes.

Q. And you kept it for how long? A. Well, I moved several places. I can't remember how long I kept it. I believe I kept it until 1948. I kept it a year.

Q. Then you returned it to your father? A. Yes, I did.

Q. Do you know what happened to it after that?

A. No, I believe he kept it at home.

Q. You weren't there when Mr. McLean paid your father $15 for the typewriter and your father gave a receipt? A. No, I was not.

Q. The first occasion when you saw the typewriter was when it was in your home in 1945? A. Yes.

Q. You don't know how your father got it? A. No, I don't.

Q. Or who had it before? A. No.

Q. Or what happened to it before then? A. No, I don't.

MR. CROSS: That is all.

MR. MURPHY: All right. Thank you.

MR. CROSS: Thank you very much.

(Witness excused.)

[3792] MR. CROSS: Call Mr. Rabinavicius.

HENRIKAS RABINAVICIUS, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination by Mr. Cross:

Q. Mr. Rabinavicius, where do you reside?

A. In New York at 115 East 90th.

Q. Are you an American citizen? A. Yes, sir.

Q. When did you become an American citizen? A. I became an American citizen in 1943; I believe it was February 24th.

Q. Are you a native Lithuanian? A. Yes, I am a native of Lithuania.

Q. Will you tell us what positions you have held during the past 30 years? A. When Lithuania became an independent republic in 1918 I just came out, partially, of college, and in 1919 I entered the diplomatic service as an attache to the Inter-Allied Commission to negotiate peace, appointed by the Versailles Conference in the Baltic States. I was attached to that Commission for some time from, I believe, January 1919 to June 1919.

Then I was appointed attache at the Lithuanian Legation in Copenhagen, Denmark.

I was then transferred to London, England, in March 1920 as second secretary of the Legation, and [3793] promoted to first secretary in 1921.

At the end of 1924 I was still in London, and I was transferred to the Lithuanian Foreign Office as an assistent to the Director of Political Affairs. I stayed there for three months and I was appointed in Washington, D. C.

I arrived in Washington in February, I believe, 1924, end of January, beginning of February, as secretary of the Legation, and I was promoted to first secretary of the Legation in Washington, D. C., and I stayed in Washington from the beginning of 1924 to 1927. And I was still attached in 1927, though in 1926—to be exact in September 1926—I was appointed Consul General here in New York; but I remained temporarily attached to the Legation in Washington.

Early in 1930 I was appointed to Moscow, to the Lithuanian Legation in Moscow as counselor of the Legation and Charge d'Affaires, because the Minister was an elderly gentleman, and I had to replace him from time to time.

I stayed in Moscow with the Legation in this capacity for over five years.

In May 1935 I was transferred to London, England, and I remained in England until almost the end of 1940, after the Bolsheviks gobbled up Lithuania, and [3794] I then came to America to settle in private life.

While I was in London I was a Lithuanian delegate

to the Non-Intervention Committee in Spain during the civil war in Spain.

I think that is about all; those are all my posts.

Q. When you came over to the United States had you married a native American? A. Not exactly when I came over. I came over in 1924 and I was married in 1929 to a native American, that is correct.

Q. The last time. You had already prior to that time—

A. My wife went along with me to Moscow to the Legation. I was married in 1929, July 23.

Q. And she is a native American? A. She is a native-born American.

Q. When did you file your first papers for citizenship, approximately? A. Approximately I filed my papers not much more than one month or six weeks before I actually became a citizen.

Q. Was the time shortened because of the fact that your wife was a native-born American? A. Yes. I believe, according to the law, since having been married to a native American citizen for over ten years I was entitled to become a citizen in, I believe, two years.

Q. Now, some time after you became an American [3795] citizen did you become associated with the OSS? A. Yes.

Q. When? A. Immediately after I became a citizen of the United States I became associated with the Office of Strategic Services. I do not remember the date, but I do remember that the people in Washington wanted me to become associated—were eager for me to become a citizen quickly so I could work for the OSS.

Q. And immediately after becoming an American citizen—

A. Right immediately.

Q. —did you start working for the OSS? A. Yes.

Q. Was that on a part time or full time basis? A. It was on a part time basis.

Q. And that was a part time paid basis?

A. It was a part time paid basis.

Q. How long did you continue to work for the OSS?

A. I worked for the Office of Strategic Services until after World War II was over. The war over in May; I believe that our office folded up in June.

Q. Of 1945? A. Of 1945.

Q. You reported to someone here in New York who was head of the New York office of the OSS?

A. Must I answer these questions, Mr. Cross, because I like not to discuss my work with the OSS, if I may.

Q. Well, after you left the OSS, perhaps before, did [3796] you become associated in some business? A. Oh yes. When I returned to America, and I had lost my career due to the Soviet occupation of Lithuania—

MR. MURPHY: I didn't hear that. You lost what?

THE WITNESS: I beg your pardon?

MR. MURPHY: Lost what? I didn't hear you.

A. (Continuing) My career, my diplomatic career, I naturally had to engage in something to make a living here, and I first started writing articles; I had a contract with the Columbia Lecture Bureau and the Columbia Broadcasting System for a while; and then I became seriously ill, and that organization was bought out by Columbia Artists, and I discontinued lecturing, and I joined a business.

I studied the problem of pension planning in the United States, and I have become engaged in corporation pension planning, and I am engaged in this business up to this time.

Q. With an office where? A. I am an associate of a firm. Our office is 527 Fifth Avenue, New York.

Q. On some day shortly after Thanksgiving did you leave for the Pacific Coast on a business trip, Mr. Rabinavicius? A. Yes.

Q. When was it? A. I left New York on November 29 on a business trip in the United States. I covered many [3797] points including the West Coast.

Q. When did you return to New York after you left November 29th? A. I returned to New York on January 3rd or the 4th in the morning.

Q. And upon your arrival in New York did you communicate with me that you were back in New York? A. Yes, I did. Indeed.

Q. Had you been in communication with me both by long distance telephone and by correspondence prior to your return when you were still in the West? A. When I read to my great surprise that—

MR. CROSS: No—

MR. MURPHY: I object now.

Q. Just whether you were in communication. Mr. Murphy is correct in his objection. A. Yes. I telephoned you in the middle of the night—

Q. In fact, at about three o'clock in the morning?

A. About three o'clock in the morning immediately after I learned about my name having appeared in the paper in connection with this trial.

Q. And then you also wrote me while you were away? A. And then I wrote you after this.

Q. Do you know Mr. Eugene Lyons? A. Yes, I know him very well indeed.

Q. Do you know Mrs. Lyons? A. Yes indeed.

[3798] Q. When and where did you first meet them? A. I remember exactly. I met Mr. and Mrs. Eugene Lyons somewhere around the month of March 1930 at a reception at the Greek Legation in Moscow.

Q. And since then have you seen him on various occasions? A. Yes, I have seen him quite frequently in Moscow thereafter until they left Moscow.

Q. How about since you have been in this country?

A. Since I have been in this country I have seen quite a good deal of—I wouldn't say "quite a good deal"—I have seen Eugene Lyons a number of times. I once delivered a lecture as a guest at the Overseas Press Club and Eugene Lyons presided.

Q. When was that? A. That was shortly after my arrival from London in the autumn or winter of 1940.

Q. Have Mr. and Mrs. Lyons ever been in your home in New York City? A. Oh yes, on more than one occasion.

Q. And you have been in their home? A. Yes, I have been in their home. Not too many times, but I have been there.

Q. Are you acquainted with Mr. and Mrs. William Henry Chamberlain? A. I am very well acquainted also with Mr. and Mrs. William Henry Chamberlain.

Q. When did you first meet them? A. I also met them in Moscow when Mr. William Henry Chamberlain [3799] represented the Christian Science Monitor and Mrs. Sonja Chamberlain represented, I believe, the Observer of London.

Q. Some time in September of last year, Mr. Rabinavicius, were Mr. and Mrs. William Henry Chamberlain your guests in your home? A. Yes. Mrs. Chamberlain came to our home as a weekend guest first, awaiting the arrival of her husband from Europe. She arrived on Friday or Saturday, I don't remember, and Sunday she left for New York to LaGuardia Field to meet Mr. Chamberlain, and they both arrived to my country place and stayed overnight; and in the morning, Monday morning of, I believe, September 19, I drove them into New York in my car.

Q. Where was this home where they visited you?

A. In Grace Farms, Connecticut, Westport, Connecticut.

Q. And both Mr. and Mrs. Chamberlain spent Sunday night in your home before you drove them to New York? A. Yes, on Monday morning.

Q. Now, on Monday, September 19th, did you accompany Mr. and Mrs. Chamberlain to see the Lyons, Mr. and Mrs. Lyons? A. That is correct.

Q. And when was that? A. On Monday evening I had dinner as the guest of Mr. and Mrs. William Henry Chamberlain at their hotel, the Savoy Plaza, I believe, and thereafter [3800] the Chamberlains suggested that I go along with them to our old friends, the Lyonses.

Q. And did you? A. I did.

Q. So far as you know did Mr. and Mrs. Lyons know that you and Mr. and Mrs. Chamberlain were coming? A. I believe that they certainly knew that Mr. and Mrs.

Chamberlain were coming because the Chamberlains telephoned them that they are in town and wanted to visit them. Whether the Chamberlains told the Lyons that I am coming along or not, I don't know. I was not what might be called an invited guest of the Lyons that evening, but we were on familiar terms, and we sort of walked in on each other.

Q. When you got there who was present?

A. I beg your pardon?

Q. When you arrived at Mr. and Mrs. Lyons' apartment who was present? A. When —

Q. When you arrived. A. When I arrived at the Lyonses there was only Mr. Lyons and Mrs. Lyons and nobody else.

Q. How were they dressed when you got there?

A. They were dressed informally.

Q. At that time when you arrived with Mr. and Mrs. William Henry Chamberlain at Mr. and Mrs. Lyons' apartment, did you know that Mrs. Massing was to be there that evening? A. I didn't know that she will [3801] be there before I arrived at their apartment, but when we arrived—

Q. Well, don't tell us the conversation.

A. I beg your pardon.

Q. What took place before she arrived? Had you ever met Mrs. Massing prior to this occasion? A. No, I had never met her in my life—not to my knowledge. I will say that because in Moscow—she was in Moscow at the time I was there, but I don't remember having met her. I don't think I ever met her.

MR. MURPHY: Now, your Honor, I am going to ask that any conversations had with this gentleman and Mrs. Massing be excluded. That is on the theory, as I understand the law, that when you cross-examine a witness on matters that are not particularly relevant to the issues presented by the indictment, that you are bound by the answers of the witness; and only in case of parties may you bring in people to contradict. In other words, the examiner takes his chances in examining a witness on col-

lateral matters, and I submit that any proposed testimony be elicited from this gentleman is barred under the rule.

MR. CROSS: If your Honor please, may I state—

THE COURT: You are contending that you have laid the foundation for this testimony for the impeachment [3802] of Mrs. Massing?

MR. CROSS: Not only that, your Honor—

THE COURT: Is that one of your purposes?

MR. CROSS: That is the sole purpose, if your Honor please; and when I asked Mrs. Massing at page 1687,—"Q. Did you have some talk on that occasion or some occasion about what you were going to testify to in the Alger Hiss case, and that you were going to see that he was convicted?"— Mr. Murphy said, "Oh, I object now, your Honor, unless Mr. Cross proposes to come forward with proof; and I am going to ask him, one, not as a lawyer, but as a gentleman, to withdraw that statement. If he does say he is going to come forward with that proof I will withdraw it, but I think it is highly improper, not lawyerlike, immaterial and irrelevant; but, as I say, I will withdraw the objection if Mr. Cross tells your Honor and the jury that he will come forward with such proof."

And I said: "Well, I will tell your Honor and the jury that I have been told—

"Mr. Murphy: No, no, not what he has been told; that he will come forward with testimony on that chair."

And I said, "and he will take that chair if it has to be under subpoena." And then I proceeded, and we entered into a stipulation here with reference to Mr. Rabinavicius being absent to explain why he was not [3803] called; he could have been subpoenaed, I admit it, but I did not propose to subpoena him from the West Coast; he is back here, and I am making good my promise to the Court and to the jury to impeach Mrs. Massing.

MR. MURPHY: May I be heard on that, your Honor?

THE COURT: Yes.

MR. MURPHY: I objected to Mr. Cross questioning Mrs. Massing because I did not believe it was proper then,

and the reason for asking Mr. Cross to come forward with proof was because unless he told the Court and jury that he had proof he would not have been entitled even to ask the question. I was objecting to the line of questioning. However, the man is here, so the question of the stipulation becomes academic.

I stipulated that Mr. Rabinavicius was on the West Coast and that he would not be here until some day in January. But I submit now, your Honor, that to permit this witness to testify to conversations with a witness not relevant on the issue presented by the plea of not guilty on the indictment is going to permit me, in turn, to call all of the people who were present at the party, and the first thing you know we will be discussing not the issues presented by the indictment but what was said at a particular party.

[3804] THE COURT: I think the foundation has been laid for it, Mr. Murphy, and the objection is overruled.

BY MR. CROSS:

Q. After you and Mr. and Mrs. Chamberlain arrived in Mr. and Mrs. Lyons' home, did other guests later arrive? Were there other guests who arrived later? A. Yes, other guests arrived later.

Q. Will you tell us who they were, if you remember, and in the order in which they arrived at Mr. and Mrs. Lyons' home? A. I am afraid I don't remember in which order they arrived. I do remember most of the people. Mrs. Freda Utley arrived there. Mrs. Irene Kuhn. And a gentleman whose name I don't recollect. And Mrs. Hede Massing.

Q. Who arrived last? A. To the best of my recollection it was Mrs. Massing who arrived last. I am not sure, however. Either she or Mrs. Kuhn. I don't remember.

Q. After you were all present in the Lyons home was there some discussion with reference to what testimony Mrs. Massing said that she was going to give in the Alger Hiss case? And the answer would be yes or no.

A. Yes.

Q. Now will you tell us what that conversation was?

A. Mr. Lyons turned to Mrs. Massing and asked us—asked her, I beg your pardon, to tell us how she met [3805] Alger Hiss. And Mrs. Massing said substantially as follows:

I was in the service of the Soviet Russian Government. I was doing spying work for them. I had a Russian boss in New York to whom I reported my activities. My main assignment was, however, in Washington, D. C. My main assignment was to endeavor to contact young men in the Department of State. I was an attractive woman and it was considered that this will be helpful. I was quite successful with one young man, a Mr. X.

Mrs. Massing did not mention his name; I haven't heard it anyhow.

And one day Mr. X remarked to me—I beg your pardon; Mrs. Massing made a point in her contacting the young men in the Department of State or in her endeavors to contact them, she carefully concealed from them that she was either a Communist or a Soviet Russian spy because that would have frightened them away from her.

She was very successful with that Mr. X, getting him into an organization which she said was to be an anti-fascist organization, an organization to fight fascism in this country.

One day Mr. X says to her, "Why should I join some organization that you are creating? We have such an organization right in the Department of State and it is headed by a man in the Department of State."

[3806] And Mrs. Massing said, "Who is he?"

And Mr. X said, "It is Alger Hiss."

She then expressed a desire to meet him, Alger Hiss. And Mr. X arranged for such a meeting one evening at his home.

At his home she was present, she said, Mr. and Mrs. X and Mr. Alger Hiss. Mrs. Alger Hiss was supposed to be there but she was not there.

During the conversation at Mr. X's home Mrs. Massing said she asked Mr. Hiss, or she rather said to Mr. Hiss, "I am going to take this young man away from you."

And she then turned to Mr. Lyons—she interrupted her telling us the story about meeting Mr. Hiss, and she turned to Mr. Lyons and said, "Gene, what did Alger Hiss say?"

And Mr. Lyons retorted, "I don't know what Mr. Hiss said, I wasn't there, you ought to know yourself."

And she said she had repeated this thing so many times recently that she is beginning to be confused.

And she continued: Hiss said, "You can't have that man."

"Oh, but I am a woman," said Mrs. Massing, "and I have a better chance than you."

Then Mrs. Hiss related her return to New York [3807] and her reporting it to her Russian chief—

THE COURT: You said "Mrs. Hiss," I think.

THE WITNESS: I beg your pardon. That was a mistake. Thank you, your Honor. It was Mrs. Massing.

A. (Continuing) Mrs. Massing returned to New York and reported to her Russian chief the fact that she met Alger Hiss.

"Alger Hiss?" said the Russian chief, in a whisper.

I am trying to repeat it more or less the way Mrs. Massing told it to us.

"You better keep away from him."

Nothing more was said by Mrs. Massing until I questioned her—at least I haven't heard her saying anything else because that was as if the end of her story; and a little talk started, people talked amongst themselves, but I tried to get to ask her—

Q. Did you ask some questions and did she—

A. Yes, I tried to get to ask Mrs. Massing some questions.

Q. Tell us the questions and what answers you were given. A. I asked Mrs. Massing, "Did you ever meet Alger Hiss again after that evening?"

And she said, "No."

I said, "During your conversation with Hiss at Mr. X's apartment did he tell you or intimate to you [3808] that he was a Communist or an apparatchik"—the word

"apparatchik" was used by Mrs. Massing to explain the Russian word for spying.

She said, "No, he did not tell me, he did not have to tell me. I knew that he was."

I asked her, "How could you know that a man was a Communist or a spy if he did not intimate to you or tell you that he was?"

"Oh," she says, "you don't understand those things. One apparatchik understands, realizes who is another apparatchik."

"But still," I said, "this is a very serious accusation against an important official of the Government of the United States, a member of the staff of the State Department, to say that he is not only a Communist but an apparatchik working for a foreign power. Did your Russian boss tell you that he was an apparatchik?"

She said, "No, he didn't have to tell me." And she became angry, stood up, and she said to me, "Look straight into my eyes and tell me that I am lying."

And I did not say anything to her one way or another.

Later she turned again to me and said, "You wait and see; I will write articles after this trial is over and I will have one that will be addressed [3809] to you. You will find yourself in one of my articles. And if I am permitted to testify Hiss will be indicted or put to prison," or something to that effect. I don't remember that exact wording.

I believe that is about all that passed between me and Mrs. Massing on Hiss, outside of other things that we had to say to one another.

Q. Now, Mr. Rabinavicius, did Mrs. Massing in anything she said during this conversation use the expression or the words "We are both working for the same boss"?

A. No, I haven't heard these words.

Q. Did you at some time tell of this meeting to Mr. Edward C. McLean? A. Yes, I did. I told Mr. McLean about this meeting about two and a half or three weeks after it occurred, one Sunday afternoon at my country house in Connecticut.

Q. Who was present over that weekend at your home

in Connecticut? A. We did not have any guests staying with us during that weekend at our home.

Q. Did you have some talk with some person shortly before you saw Mr. McLean on the day that you did?

A. Oh yes. We had a visitor in our house, Judge Ploscowe and his wife, a member of the judicial system in the City of New York, and Judge Ploscowe is a very good friend of mine.

[3810] MR. MURPHY: Proskauer?

THE WITNESS: No, not Proskauer. Ploscowe—P-l-o-s-c-o-w-e.

MR. MURPHY: Oh, City Magistrate.

THE WITNESS: Yes.

A. (Continuing) I related to him—

MR. MURPHY: Your Honor, I think perhaps this might not be admissible.

MR. CROSS: I think that is right.

THE COURT: The objection is sustained.

Q. Did you narrate what took place to Judge Ploscowe when he was there on Sunday at your home in Connecticut? A. I did.

Q. In your presence did he telephone to Mr. McLean at Mr. McLean's home in Darien, Connecticut?

A. He did, right there and then.

Q. And did Mr. McLean, within a matter of a very short time the same day, come over and have a talk with you? A. That is correct.

Q. And was Judge Ploscowe in and out your home during the time that Mr. McLean was over there? A. No. Judge Ploscowe had left for the beach, but he came back just before I finished speaking to Mr. McLean.

Q. Mrs. Massing, at page 1717, said that "the gentleman you are referring to was very pro-Soviet." Are you [3811] very pro-Soviet, Mr. Rabinavicius? A. No, I am not pro-Soviet at all. If anything, I am anti-Soviet.

Q. And have you made various speeches at various times and written various articles in which you have expressed anti-Soviet views? A. All the articles that I have written in this country, all lectures that I have de-

livered in this country were substantially—were entirely anti-Soviet.

Q. And at this dinner when Mr. Eugene Lyons sat in the chair and you were the guest speaker, was your speech anti-Soviet? A. Very strongly so.

Q. It also states that you were rather critical of our Government. Was there anything said by you at that meeting that could possibly be construed as anti-critical of the Government?

MR. MURPHY: I object to the form of the question.

THE COURT: Sustained.

Q. Well, have you told us all that was said at the meeting with reference to the Hiss matter?

A. I believe to the best of my recollection I told you all.

MR. CROSS: You may inquire.

[3812] *Cross Examination by Mr. Murphy:*

Q. Did you know, Mr. Rabinavicius, that the summary that you have given us is substantially what Mrs. Massing told us she told you? Did you know that?

A. I—

Q. Did you know that, Mr. Rabinavicius? A. Not quite.

Q. No. And you tell us now that you, since you have been here, have been rather outspoken in your anti-Soviet feelings? A. Yes, sir.

Q. So that we can say that at least on this particular evening when you were an uninvited guest in the home of Mr. Eugene Lyons, you expressed rather strongly those anti-Soviet feelings? A. Yes.

Q. And I take it you said so in no uncertain terms so that a man like Mr. Lyons would recall them?

A. I should think so. May I—

Q. Please. A. Excuse me.

Q. Up until 1943, though, you were working for the Latvian Government? A. For the Lithuanian Government.

Q. Lithuanian Government. A. Not until 1943, but until 1940.

Q. 1940? A. Yes.

Q. During that time when you were working for the Lithuanian Government, can we say that you expressed yourself so strongly? A. Oh yes.

[3813] Q. Yes? A. You mean so strongly against the Soviets?

Q. Yes. A. Certainly.

Q. And at this particular party, that was one of the subjects of your conversation, anti-Bolshevism? A. I—

Q. You feel just as strongly about Bolshevism as you do about Soviet Russia, do you? A. I certainly do. I feel strongly anti-Bolshevik.

Q. And can I say that the expressions that you used at that particular party were anti-Bolshevistic?

A. I don't understand your question. Do you mean in connection with the Alger Hiss or outside of—

Q. No. You talked I take it with some of the other guests other than Mrs. Massing at that party?

A. There wasn't a direct conversation as there was with Mrs. Massing. It was just general conversation about the 11 Communists. That was the main conversation before the "Massing" trial—and we all agreed that Mr. Medina did a wonderful job and that those Communists certainly have been shown up to the nation as conspiring against the United States of the government.

Q. Are you finished? A. Yes.

Q. Would you want to add any more about Mr. Medina?

A. Well, I just would like to say that there was an extensive conversation that evening at the Lyonses before the Hiss question came up, and that we all agreed, and [3814] I believe I expressed myself very strongly in favor of the fine spirit of tolerance shown by Mr. Medina as compared to those terrible trials behind the curtain, some of them which I have personally witnessed as a foreign diplomat; and I believe everybody there in the room, including myself, felt great admiration, and I expressed an admiration for Mr. Medina, particularly for the wonderful

system of justice in our country compared to the terrible system of injustice in Soviet Russia and in their satellite countries. That is all I have to say.

Q. Nothing more you want to add? Nothing more you want to add? A. Nothing more I have to add. I am willing to answer questions, Mr. Attorney.

Q. Sorry? A. I am willing to answer any questions and cooperate with you.

Q. Did you call the FBI after you talked with Mrs. Massing? A. After I talked with Mrs. Massing? No, I never did.

Q. Did you hear me? A. I beg your pardon?

Q. Do you have some defect in your hearing? A. I don't think so.

Q. No. My question was, did you call the FBI after you talked with Mrs. Massing? A. No, I did not. I have never—I was never in the habit of calling the FBI after social conversations of this nature.

[3815] Q. Did you tell anybody else other than the City Magistrate that you have described? A. I don't remember anybody that I may have told it in such detail, but I was so shocked about what appeared to me the incredibility of Mrs. Massing's story that I may have spoken to others about it. I don't remember it.

Q. You were shocked at the incredibility; is that what you say? A. Well, I was particularly shocked at her turning to Mr. Lyons and asking for a line; besides, I was shocked to hear that a woman who has become a citizen of the United States has then after become a spy of Soviet Russia. I have learned about the spies, Soviet Russia, and their spying system in Russia.

Q. But you despised her because she asked Mr. Lyons for a line? Is that what you said? A. I said I despised the spying system of the Soviet Russia which I have seen very well and realized, being a diplomat of a foreign country in Moscow for five and a half years.

Q. Did you know any Russian spies over here, Mr. Rabinavicius? A. No.

Q. And you have been here since 1943 anyway? A. I have been here since 1940.

Q. 1940. And during all of that time you haven't heard of any Russian spies in this country?

A. Oh, I have heard of former Russian spies in [3816] this country, or I have heard of one Russian spy, that is Julia Coplon. We also discussed this case. And I thought it was a fair trial and she was justly sentenced in Washington, but I felt that no evidence—

THE COURT: I think you had better just answer the questions.

THE WITNESS: Yes, your Honor.

Q. You have rather a warm respect, I take it, for Mr. Lyons, have you? A. Yes, I do, except we differ on certain political views.

Q. I see. And Mr. Chamberlain? A. Mr. Chamberlain is a very close friend of mine.

Q. And you have warm respect for him, I take it, and his wife? A. Yes, I do have respect for Mr. Chamberlain and his wife, except I do not always agree with certain of Mr. Chamberlain's political views. If you will permit me, I will tell you which—

Q. In other words, you consider each of those couples as your friends, do you? A. Well, I consider the Chamberlains as friends of mine. With regard to the Lyons, they were very close friends of mine and I believe our friendship had just cooled off, because I thought Mr. Lyons was fanatical in his combat, shall I say of Communism, Sovietism, and I felt I am as anti-Soviet, as anti-Communist as he is, except I don't believe in [3817] the fanatical part of it. That is I believe the only difference that comes in between us.

Q. In other words, you are anti and he is fanatically anti? A. That is what I believe.

Q. And you think because of that sort of shade there your friendship has cooled? A. That was my impression, because at a dinner at my house we also had a heated discussion on the same problem.

Q. The same problem of the Soviet? A. I beg your pardon?

Q. The same problem of the Soviet Government?

A. Yes. Mr. and Mrs. Lyons were guests in my house for dinner last winter, and there were other people there, and we did not fully agree on the method of how to inform the American people about Soviet Russia. I expressed myself that we must tell the whole truth about the Soviet people, the good and the bad about them so that the American people is informed.

I said that the greatest mistake of Nazi Germany was that they misled their people about the democracy in America and they thought America will be a pushover.

And Mr. Lyons agreed with me; we must tell the truth about Soviet Russia, except that his way of telling the truth was different to my way of telling the truth. He believed, for instance, that the [3818] entire Russian people is against Stalin and that Stalin will be a pushover if a world war appeared, and I believed that the Russian people is as devoted to Stalin as the German people was devoted to Hitler, because they are blinded by vicious propaganda in Russia. But I felt it is an interest of our United States of America to know of the power of the propaganda in Soviet Russia so that we know that they are not a pushover.

I think these were the only things that I ever quarreled with so I think with Eugene Lyons. Otherwise I have the highest regard for him.

[3819] Q. How about Mr. and Mrs. Chamberlain—who are Mr. and Mrs. Chamberlain, by the way? Will you tell the jury? A. Mr. William Henry Chamberlain is a prominent writer in the United States.

Q. Working for any particular magazine? A. I understand he writes at present for the Wall Street Journal in New York, and I suppose he writes for other magazines.

Q. Can you think of any? A. I don't remember—the Atlantic Monthly he used to write for; I don't know whether he still does. Anyhow, I consider him a very fine person and a very able writer. I love his books about Soviet Russia.

Q. And you said except for this shade of difference between you and him as to the Soviets, you considered him

a warm and trusted friend? A. Mr. William Henry Chamberlain?

Q. Yes. A. I would think so.

Q. And I daresay that you would match his recollection of the incidents of the night of September 19 with yours?

A. Well, I don't know how attentively he listened to Mrs. Massing, and whether he was interested in my questions or not; I couldn't say that. Therefore I would not say whether it would match or not.

Q. How about Mr. Lyons? A. There was quite a bit of a commotion in that audience; everybody talking to everybody else, and I wouldn't know about that either. That is for [3820] Mr. Lyons to say whether he heard it or didn't hear what went on between me and Massing.

Q. This commotion didn't interfere with your recollection? A. I was interested, naturally, in my putting questions to a person, and I was interested in her answers to my questions. I have had the experience of over 20 years of asking people political questions and digesting them in my mind.

Q. Well, did you believe her when she said that she was a Russian agent in this country? A. Yes, I believed her.

Q. That was because you knew that Russia did have agents here? A. I should say so. I surmised it, I didn't know. How could I know but —

Q. You believed it? A. Oh, I definitely believed that Russia has agents in this country or is trying to have agents, indeed.

Q. And was part of the apparatus set up for people to report to other people, their superiors? A. I beg your pardon?

Q. Was that accepted apparatus practice, for one spy to report to a superior? A. This I wouldn't know, Mr. Murphy.

Q. Now, you have been around for a long while, particularly through Europe, and had many years of [3821] experience in Moscow; and during all of that time didn't you sort of pick up that little bit of knowledge that

spies sometimes report to their superiors? A. I should certainly say that I know that spies report to their spying superiors, yes.

Q. Of course. A. Of course. Sometimes I suppose there may be an occasion when a spy is told to report to another spy.

Q. And it is good spy practice, I take it, to have female spies? A. Well, in my personal opinion it is poor practice to have female spies.

Q. And that is because your experience in connection with spying intrigue leads you to that conclusion? A. I had very little experience with spying intrigue in my diplomatic service. I had one grand experience of tracking down a woman spy of the Nazis against Great Britain, but I cooperated with His Majesty's Government when I was attached to the Court of St. James in London.

Q. At any rate, you had sufficient qualifications to express an opinion as to the value of female spies? A. Well, I don't know. For whatever it is worth, I will say.

Q. For what it is worth? A. For what my opinion is worth. It may be worth nothing.

Q. I think you told us that Mrs. Massing near the end said that she either hoped—or something—that Mr. Hiss [3822] was going to get indicted; is that what was said?

A. I don't remember the exact wording, Mr. Murphy, but—

Q. That is what you said here only a little while ago; that was one of the words you used? A. Well, she said something to the effect that she hoped when—if she is permitted to testify—she expressed a concern whether she will be permitted to testify at all mainly because she thought she will be untrustworthy as she has been a Russian spy.

Q. She told you that? A. She didn't tell me that—

Q. Let me just follow that up now, because you just said something, and I want to just see how good your recollection is, and maybe the jury can test your recollection on the rest of your matters. A. Yes?

MR. MURPHY: Now, will you just read what the witness said about untrustworthiness?

(Answer referred to read as follows):

"Well, she said something to the effect that she hoped when—if she is permitted to testify—she expressed a concern whether she will be permitted to testify at all mainly because she thought she will be untrustworthy as she has been a Russian spy."

Q. Do you tell us under oath, as you are here now, that that is what Mrs. Massing said? Yes or no, please. [3823] Yes or no. A. Substantially, yes.

Q. She said in words or substance that if she is permitted to testify—and she has some doubt whether she will, because she is untrustworthy—did she use some word similar to that? A. I beg your pardon. This word is a bad word.

Q. Is it bad or is it wrong? A. This word is wrong.

Q. Wrong? All right, now let me start all over again. You didn't use it intentionally; it was just a slip of the lip? A. It was a slip of my tongue.

Q. Fine. Did you make any other slips? A. No. As a matter of fact, if you will permit me I will explain how this slip came along.

Q. No, I am trying to ask you whether in all of your testimony there are other slips? A. No, there are no slips, Mr. Murphy.

Q. All right. Now you say that near the end of this conversation about Mr. Hiss—oh, by the way, did you ask her to describe Mr. Hiss at all so that you could be sure she was talking about the right person? A. No, I did not.

Q. You were familiar with the newspaper stories in the last year about Mr. Hiss in this trial, were you? A. I read the trial of Mr. Hiss in the New York Times.

Q. Did you read it with or without interest, or just [3824] in passing? A. No, I read it with deep interest.

Q. Deep interest? So you were familiar, then, with the parties that were named; in other words, you were familiar with the name Alger Hiss? A. Oh, certainly.

Q. And I take it you were familiar with the name of Mrs. Massing? A. Yes, as much as I read in that trial.

Q. Now, when Mrs. Massing said that she had this meeting in Washington, did she say at whose home it was?

A. Yes, she said at the home of Mr. X.

Q. In other words, she did not disclose the name of X?

A. No. I didn't hear it.

Q. Well, that is what I am trying to get, Mr. Rabinavicius. Did she say in these words, "Mr. X," or did she say blank, and you assumed it was X? A. No, she used the words "Mr. X."

Q. She used the words "Mr. X"? A. Yes.

Q. Well, what part of that didn't you hear? A. What part of what didn't I hear?

Q. You said you didn't hear her say what home it was. I thought you said that. A. I don't think I said that.

Q. All right. She said this dinner meeting was at the home of Mr. X? A. Yes, sir.

Q. Did you ask her who X was or Mrs. X? A. No. I didn't have that much interest to ask her embarrassing questions. I felt she didn't wish to disclose the name, [3825] and I was satisfied.

Q. And you didn't press it? A. I didn't press it at all. I wasn't that interested.

Q. You were not that interested? A. No, I wasn't that interested.

Q. And she told you that she was sort of proselyting X; she was trying to get X to do something? A. Oh yes. She was trying to get X to become a member of her apparatus.

Q. She told you that X was a member of the Government, did she? A. She said that Mr. X was an official of the Department of State.

Q. Still that didn't arouse any interest? A. Not sufficient for me to question a strange person.

Q. You have had 20 years of questioning people?

A. Oh yes; more than that.

Q. But you didn't press her on Mr. or Mrs. X? A. I don't remember.

Q. You don't remember? A. I don't remember whether I asked her who Mr. X was or not. I am pretty sure I did not.

Q. Didn't you tell us not more than two or three minutes ago you didn't have any interest in finding out who X was?

A. Well, naturally I was curious about who Mr. X. was.

Q. And you are still curious, aren't you? A. Well, I believe I know now who Mr. X was. I surmise it is Noel [3826] Field because I read the case in the newspapers, and also I read Mrs. Massing's testimony during her first day.

Q. A regular transcript of it? A. I asked Mr. Cross to send me a transcript, or Mr. McLean, because my name was mentioned in it.

Q. Well, didn't you know that you might be called as a witness? A. No, I did not at all. I have never met Mr. Cross in my life before until I returned from California; I had not the faintest recollection, because, as a matter of fact, I said to Mr. McLean when he visited me, "I am just giving you this because I feel so strongly about this matter; it seems to me that this woman is concocting a story, and I just give it to you as background, but I would rather not be mixed up in this trial."

And Mr. McLean said to me I will not be, and I forgot all about it. I never saw Mr. McLean after that visit; I never heard from the defense, and I went off on business to California, but I was perturbed when I heard this, and I was particularly perturbed when I saw Mrs. Massing mention that I am pro-Soviet; so I said to Mr. Cross if he wishes me to testify I thought I would like to say that so that it comes out that I am not pro-Soviet. That was my real, main interest in testifying here today.

Q. You said you felt rather strongly about something or other? A. Yes, I felt very strongly about Mr. Hiss, [3827] having been an important person in the realm of civil service of the United States in the Department of

State and related services, and I felt very disturbed when I saw that the only witnesses who were brought out against him, the only witnesses at the first trial, was a former spy and a person with all the past that was described of Mr. Whittaker Chambers, and then I came to the Lyons apartment, and I hear that another person is trying to become a witness in this case, and who is she? A naturalized American citizen like myself but one who has become a spy for the Russians and later gave it up. So I felt disturbed that this type of persons only and nobody else are testifying against Mr. Hiss. That made me feel that Mr. Hiss was innocent unless material proof was brought out. As a matter of fact, I did state in Lyons' apartment that if material proof is brought out that Mr. Hiss trafficked in State Department papers to a foreign power I would like to see him—I also would like to see him indicted and go to prison, but I want to see real proof and not just the testimony of two former Russian spies in this country. That is what I felt disturbed about.

Q. You are willing to let the jury do that? A. Yes; but you asked me what I was disturbed about, so I explained that to you.

Q. And you think there is a better way of tracking down [3828] spies than using spies? A. Yes, I think there are other ways of tracking down spies than using spies.

Q. Are there better ways? A. Beg pardon?

Q. Are there better ways? A. I wouldn't know—I think there are better ways.

Q. There are better ways? A. Yes. My belief in better ways is the FBI, for whom I have very great respect because I have had some contacts with them during the war.

MR. MURPHY: Your Honor, I think I have had enough.

Redirect Examination by Mr. Cross:

Q. Have you ever met either Mr. or Mrs. Hiss in your life? A. I have never met them. I have never seen them until today in the court.

Q. By the way, when you got over to the Lyons apartment what kind of greeting did you get either from Mr. or Mrs. Lyons? A. Very friendly. The usual friendly greetings, Mr. Cross.

Q. Well, in what way? A. It was a very friendly greeting, Mr. Cross. They were very welcome in my home always and I felt I was welcome there.

Q. Now, you asked Mr. Murphy if he wanted you to explain something and he said no. What was it you wanted to explain? A. If the part of what was said will be recalled to me—

[3829] Q. With reference to the matter of some word that you said was wrong, and you said if he had let you you would explain it. A. Oh yes. This is the question of "trustworthiness." As a matter of fact, the question of trustworthiness—I confused it—was expressed not by Mrs. Massing but what was expressed to me by Eugene Lyons when the two talked quietly together.

Q. And when you said you had made a slip, you meant Mr. Lyons used the word instead of Mrs. Massing? A. Exactly, just as I used "Mrs. Hiss" instead of "Mrs. Massing" before. That is the only slips I made today.

MR. CROSS: Thank you. That is all, Mr. Rabinavicius.

THE WITNESS: Is that all, your Honor? Do I remain seated or do I go?

THE COURT: You may go.

(Witness excused.)

MR. MURPHY: Shall we recess now, your Honor, before Dr. Binger comes back?

THE COURT: It might be a good idea, yes.

(Short recess.)

CARL A. L. BINGER, resumed.

Cross Examination continued by Mr. Murphy:

Q. Doctor, when you testified the other day on direct examination you made these statements—I am reading from [3830] page 3686—the question was in relation to what you had observed at the last trial of Mr. Chambers

as a witness when you were here those five or six days, and the question was:

"Q. What did you observe about Mr. Chambers when you saw him in court at the first trial and here?

"A. May I say that I would not attempt to make a diagnosis of psychopathic personality purely on the observation of a person."—And I take it, just interjecting here, that that is still a fair and good statement? A. Yes, sir.

Q. —"There are certain confirmatory things that I did see.

"Q. Will you tell us what they were?

"A. Well, he sat in this chair or in a similar one, and he apparently had very little relationship with the inquirer. He frequently looked up at the ceiling as if trying to recall something that he had previously said."

Now, Doctor, we made a count this morning of the number of times that you looked at the ceiling, and during the first ten minutes you looked at the ceiling 19 times; the next 15 minutes 20 times; and the next 15 minutes 10 times; and the following 10 minutes 10 times, making a total in 50 minutes of 59 times, and I was wondering, Doctor, whether that had any symptoms of a psychopathic personality?

[3831] A. Not alone.

Q. Not alone? A. No.

Q. Now, when I was asking you about the O. S. S. soldiers who had taken out false passports—

MR. CROSS: Did you purposely omit reading the rest of his answer?

MR. MURPHY: No, I am going to read that later.

Q. —when I was asking you about what you thought of those men in the O.S.S. who obtained these false passports under orders, and asking whether or not you could attribute to those facts any symptoms of psychopathic personality, you hesitated to draw any conclusion until you knew what the trouble with the person was; and I suggest to you now, let us suppose that the man was a witness in a criminal trial, and it developed during cross-examination that at one time while he was with the O.S.S. he got a false passport pursuant to the orders of, say, General Donovan—

would you think that that fact as applied to that witness would indicate to a trained observer like yourself that he was a psychopathic personality?

A. I could draw no inferences whatever from a single fact of that sort either for or against a psychopathic personality.

Q. You would not be willing to dismiss it from your consideration at all? A. I could draw no conclusions whatever from the single fact.

[3832] Q. Yes, but you would not be willing to not even consider it in your facts; the fact that he did it under orders, Doctor,—wouldn't that remove it completely from a symptom? A. I can't say, Mr. Murphy. I would like to tell you what you want me to say, but I can't say it.

Q. Now, I have the letter here, Doctor, that Mr. Chambers wrote; it is in evidence, and it is dated September 15, 1924. This is the letter to Professor Van Doren, and it reads:

"Dear Mark:

"Perhaps you have returned. I asked Dibble and Neff, but they did not seem to know.

"I have unpleasant news: I am returning to college. I should have warned you sooner had I known where to reach you.

"There are several reasons for the return. I went to see the Dean this morning and gave him the minor reasons. They were the desire of my parents to have a graduated child, my own desire to complete what I had begun, and a wish to specialize in history. I lied to him quite simply and told him I wanted to teach history. After all, what he wanted to be sure was that I would stick, and my major reason is none of the Dean's affair."

[3833] Now, assuming that those statements are true—

MR. CROSS: Aren't you going to read the rest of it?

MR. MURPHY: I am going to read it right to the word "Whittaker."

Q. (Continuing) Now, assuming that those statements, Doctor, are true, that he gave the Dean the minor reasons, namely, that his parents wanted a graduated

child, his own desire to finish what he started, and a wish to specialize in history, but what he told the Dean was that he wanted to teach history—would you say that that was symptomatic of a lie; in other words, would that be what you used as the basis for a symptom of a psychopathic personality?

A. Well, that is one of many lies, yes.

Q. In other words, the lie where he said, "I told the Dean I wished to specialize in history"—giving three reasons—and his next sentence was that he wanted to teach history—that is what he told the Dean—that distinction would be one of many lies? A. What did Mr. Chambers have in mind when he said, "I lied quite simply"?

Q. I will leave that up to you. This is the only fact we have in evidence. He says: "There are several reasons for the return. I went to see the Dean this morning and gave him the minor reasons. They were the [3834] desire of my parents to have a graduated child, my own desire to complete what I had begun, and a wish to specialize in history. I lied to him quite simply and told him I wanted to teach history. After all, what he wanted to be sure was that I would stick, and my major reason is none of the Dean's affair."

Perhaps I will read the whole letter to you, and then you tell us:

"Indeed it is a new one of my own, which I am content to have entre nous. (Between us.) I have an unconventional partner in this world for whom I care very much, and it is she who is urging me to this reversal. We need to analyze the basic feminine motive in getting me again in harness where, in a way, she can at once guide and encourage. She agrees (and in this I think she is right) that my present job ideally permits me to study. I shall keep it and pay my own way. And I am happy to do what she wishes.

"I tell this as lightly as possible. But you must judge by the facts. It is not pleasant to play inconsistent. I have fewer illusions about colleges than when I left. And fewer about the value of education or even of intelligence. I think the level of culture, like the level of folly and evil, remains

constant in nearly all generations and our endeavor to screw it up wholesale [3835] is a wasteful and revolting debacle. I could name on one hand the boys for whom I think the last four years of college have done a real good. It would take more than two to count over those to whom I have seen it do a real harm. I find that very depressing and, with one or two exceptions, I find the faculty as depressing as the students. I do not know whether you will be able to understand how much so.

"But I am trusting that I shall have very little time to see these things. I want to carry eighteen points of work;"—

That is pretty good, isn't it, eighteen points?

A. I don't know the system at Columbia.

Q. Well, at Harvard it would be pretty good?

A. Yes.

Q. —"I want to carry eighteen points of work; and that, with my job and my other activities, should heap the measure . . .

"You will favor me very much if you will undertake my advisorship again. I may have an occasional blank to sign, but, aside from that, will endeavor to bear myself with rectitude, humility and decorum.

"I have written very little for the past month. All my winter's work now seems to me very thin. It is [3836] too personal to be amusing and I strive not to believe I was ever so unhappy. So I have put it by. I have seldom felt so eager and so active. Whether or not I write is a minor consideration.

"I suppose you have been having a wonderful saunter about Europe. If I drop in a few days hence perhaps you will find a moment to tell me how you are and a little of what you have done.

"I see your book is to come out soon. I am glad.

" Sincerely,
"Whittaker."

Would you say, Doctor, in all seriousness, that that letter represents the writing of a psychopathic personality?

A. Do you want me to consider some of the other facts as well or do you want me to consider that letter alone?

Q. Just that of itself. A. I can't consider that by itself because it doesn't take into account that he stole 54 books and was refused admission because he stole books, and that was part of the rectitude—

Q. Doctor, aren't you a little confused on your facts? He wasn't refused admission to Columbia because he took college books. That is an incident which happened after he had left the college and had become a member of [3837] the Party and was working in the public library.

A. He was refused readmission.

Q. If he applied? A. If he applied.

Q. I think the date was so many years after.

A. Several years later. That was part of his rectitude.

MR. CROSS: There is no evidence that he stole books after he joined the Party in 1925.

Q. Well, my question, Doctor, is, by itself would you consider that letter on the facts stated in it as one of a symptom of lying so that you could apply it to your determination that that person had a psychopathic personality?

A. All I can say is that Mr. Chambers admitted lying in that letter. The rest of the letter has no bearing on his being a psychopathic personality.

Q. Doctor, when somebody admits lying, aren't they to be commended? Don't they get a sort of a merit for that, or something? A. Sometimes.

Q. I mean, if your child says, "I am sorry, Dad, I lied when I told you I didn't eat such and such a thing; actually I did"—you sort of feel rather glad about it, don't you? A. Very often, yes.

Q. And the mere fact that he had lied and told you about it, you don't attach any significance to that, do you?

[3838] A. Not unless he did repeatedly.

Q. Yes, but particularly when he comes forward and tells you voluntarily and says, "Dad, I did such and such; I didn't tell you all of the reasons; there were six and not five, and the sixth one was that I really wanted to stay out

a little later and not do my homework''—you wouldn't think too much of that omission?

A. If my child told repeated lies and confessed them to me, I would be quite disturbed about it. If he did it occasionally, I wouldn't be.

Q. But they have to form a pattern, a repetitive pattern, don't they? A. Yes.

Q. Don't you think, Doctor, that where a child says he is sorry, that that is some evidence of contrition, and that is just what the word means, isn't it?

A. Certainly. He, incidentally, didn't say he was sorry. He said he lied.

Q. Well, he said— A. That he lied quite simply.

Q. ''It is not pleasant to play inconsistent.'' And he says, before that, ''I tell this as lightly as possible. But you must judge by the facts.'' He also says, ''aside from that, will endeavor to bear myself with rectitude, humility and decorum.'' You take all of those things into consideration, don't you, Doctor, in analyzing what the one factor is which is—

[3839] A. I would take the ''Play for Puppets'' into consideration, too.

Q. Well, let us see if we can stay with the lies that you started out to tell us right before the recess, Doctor. We will come to the ''Play for Puppets.''

You said that when he applied for the Breen passport—that was 1935, he had a well defined pattern, habit of lying, and in trying to get these in detail, that is the facts upon which you relied, we had four instances: we had the first one, which you said was some sort of lie, it was the incident in the high school where he didn't give the speech but gave another; the second was the letter that I have just read to Professor Van Doren; the third was the library incident in which he admitted having taken 50-odd books while he was at Columbia—

A. He didn't—I beg your pardon, sir.

Q. Sorry, sir? A. He didn't admit it at the time. He denied it at the time.

Q. Well, they were looking, you know, for library books, public library books. A. Yes, I know. He said

that he hadn't taken books at Columbia, and they found the books in his home.

Q. No. You see, Doctor, the public library wasn't too much interested in Columbia as such. A. No, I know.

Q. And they were looking for public library books. [3840] And they didn't find what they were looking for so they said, "Could we go home with you?" A. That is right.

Q. And they went home and there they found the Columbia books. A. Yes, sir, I remember that.

Q. Now: so we have that library incident and then we have the use of the name Charles Adams when he was —I forget the age—18, 17, after high school, when he had run away from home for a couple of months. Those were the four that we had had so far which you have described either as lies or some other—I forget the phrase you used. What was the phrase? A. I think I said deception.

Q. Deception. A. And then there was another one which was—when he worked in his father's business he assumed another name, before he was a Communist.

Q. That is right. He used the name of his mother, mother's maiden name, Whittaker, which was part of his given name. A. But it was not his name.

Q. No, it was not his name. And he did it because his father was the senior clerk or so in the art department and at his father's request? A. He did it in order to deceive, and I would regard that as a lie.

Q. Well, would you say that the father, who told him to do it, manifested evidence of a psychopathic personality? A. I know nothing about his father.

Q. It was his father who told him to use the name so [3841] that he could be working there and, I suppose, not be accused of nepotism or something. Wouldn't that remove it from the symptoms of psychopathic personality?

A. I think if a man says that his name is something else from what it is, for any purpose of his own— if I said my name was Tom Murphy instead of Carl Binger for some purpose of my own, that would be a lie, because my name happens to be Carl Binger.

Q. Yes, we are agreed that it would be a lie. We are trying to find out; I think you agreed that all lies by themselves are not evidence of a psychopathic personality?

A. That is right.

Q. So we are trying to find out what there was in this lie, the use of the name Charles Whittaker, which makes you, as an experienced doctor, believe that it evidences a manifestation of psychopathic personality?

A. Simply because it is an additional lie.

Q. Additional lie. With or without reason?

A. Presumably with reason.

Q. Yes, but— A. If there is no reason—

Q. Didn't you tell us two seconds ago that all lies by themslves could not be included under the symptom of psychopathic lying? A. Not necessarily. They don't need to be; they can be.

Q. I was wondering what there was about this particular [3842] one which causes you to add it into your collective symptoms of psychopathic personality under the general characteristic of lying or deception. A. Partly because it is an additional lie and partly because Mr. Chambers apparently has the propensity to use aliases, which he did as a Communist, before he was a Communist, and a great many variations in his own name after he was a Communist.

Q. You can't talk about a person's propensities, can you, until you have all the facts together? You can't say that—well, let us take the first lie that you know of, the very first one that you know of, the one to the Dean. That one does not exhibit a propensity, does it?

A. Of course not.

Q. Of course not. It is the sum total of all from which you decide that, well, there is a propensity, an inclination? A. That is what I have been trying to say right along.

Q. We are trying to find out, Doctor, what there is in that particular lie where he, following his father's orders, uses the name—his mother's maiden name in the office where his father was a boss. A. I don't believe his father's orders were in the hypothetical question.

[3843] Q. Let us add it. Assuming that that is a fact, Doctor, would that tend to change the basis upon which you gave your opinion? A. If he was ordered to do it by his father?

Q. Yes. A. If I ordered my son to change his name I doubt very much whether he would do it.

Q. Well, that doesn't help us, does it?

A. Yes.

Q. Maybe your son is stubborn. A. That is right.

Q. But let us find out, Doctor, just what it means to a trained pyschiatrist when a boy out of high school works in his father's office and at his father's direction uses his mother's maiden name. A. Well, it certainly means a very strange setup in the home, I think—that very fact that a father would order his son to change his name and that the son would do it.

Q. Well, whether it means a strange setup in the home, Doctor, or not, does it mean anything to a trained psychiatrist? A. Yes, it would mean something to me. I said it has.

Q. It did mean something? A. Certainly.

Q. All right. That is four we have. What is the next that you recall of the hypothetical question dealing with lying or deception upon which you have come to the conclusion that it shows a habit, a repetitive pattern of lying?

[3844] A. I may not have the order correct, but all—

Q. That is all right. A. All of the lies around the passport application.

Q. No, up until that point. You said that that indicated a pattern before that. I am trying now to analyze the basis for that expression of opinion.

A. My opinion was based on all of the facts in the hypothetical question. I do not—

Q. For instance, it was not with regard to lying based upon unstable attachments. I am just trying to find, Doctor, the various lies which caused you to use the phrase habit or pattern of lying or the repetitive lies, and we now have four incidents which you describe as lies or deception.

A. I cannot divorce from my mind the subsequent facts in his history, as presented in the hypothetical question, and I do not arrest the history at any one point and make a diagnosis. I will say that we have agreed, you and I, on four lies up to the time when he was in his father's business. Now, I do not make a diagnosis on those four lies.

Q. I wouldn't think so. Can you carry on and tell us what the others were which lead you to believe that you have enough so as to characterize them as repetitive lies? A. I think so. The lies when he [3845] got his passport, the lies when he applied for the WPA job, the lies which he admitted telling before the House Committee—

Q. Well, let us stop at the House Committee because that brings us up to 1948 now. You said that the lies when he applied for the WPA job—that was in 1937, and the lies when he applied for his passport in the Breen application, that was 1935, and I think the next one you said was the House Committee. So that prior to 1948 have you told us the lies upon which you have relied? A. Prior to 1948?

Q. Yes, that is the House Committee, August 1948. A. Yes, the frequent changing of name, the withholding of truth from Mr. Berle, from Mr. Raymond Murphy, that came before the House Committee.

Q. The use of the names you mean as a member of the party; the use of the assumed names as a member of the party, you attach significance to that?

A. Certainly, and also after he was a member of the party.

Q. Yes, but I am trying to go right up to the House Committee time, 1948. And you have told us about the Breen passport application, the 1937 job at the WPA, and the use of the aliases as a member of the Communist Party. A. And the taking of the oath of allegiance [3846] to the United States when he was a member of the Communist Party.

Q. That was all in connection with the WPA job. You tie them all in together, don't you?

A. That is right.

Q. Anything else up to that period? A. And then the frequent variation of names after he said he left the Communist Party.

Q. Doctor, do you, just touching that point, the frequent variations of names after he left the party, does that have special significance to you, Doctor, really? A. Well, fitted into the whole picture, it does, because he called himself—first said of himself he was a faceless man, and he seemed to be trying out various fronts to present to the public; and once he would be Jay David Whittaker Chambers, then he would be Jay Chambers, and Whittaker Chambers.

Q. Well, does that fit into the pattern of repetitive lying, the variation of those names?

A. I should say not only into lying but into the kind of pathological lying which was playing a part as if he were somebody else; trying to make yourself conform to some imagination that you have about yourself.

Q. I see. So that anyone who does that, Doctor, evidences a symptom of a psychopathic personality, would [3847] you say? A. Not that alone.

Q. No. But it is some evidence to be taken into consideration by a trained psychiatrist? A. I think not only by a trained psychiatrist; by anyone.

Q. Anyone? A. Anyone would take into consideration the fact that a man found it necessary constantly to present himself under a different name.

Q. Now let me see, Doctor, what names you have used. You wrote the book "The Doctor Pays," or "The Doctor Speaks." Do you remember what name you have on the front page of that book? A. Well, I can save you a lot of trouble. I have two names. My legal name is Carl A. L. Binger. It is rather cumbersome. My friends call me Carl Binger. Those are the only variations I have ever used.

Q. Doctor, what name did you use when you wrote the book "The Doctor Pays"? A. "The Doctor's Job" is the name of the book.

Q. The doctor what? A. "The Doctor's Job."

Q. "The Doctor's Job." Yes. I am sorry.

A. Carl Binger.

Q. Carl Binger. And when you testified here you told the clerk your name was what? A. My given name, which is Carl A. L. Binger.

Q. Carl A. L. Binger. Now you are listed in the [3848] telephone book in the City of New York as—how, Doctor?

A. Carl Binger.

Q. Carl Binger. Now, when you testified in the last trial, what did you tell the clerk your name was?

A. I don't remember. One of the two.

Q. One of those variations? A. Those are the only two names I have ever used.

Q. Well, is it not a fact, Doctor that in the American Medical Directory in 1938 you were listed as Carl Binger and in 1942 as Carl A. L. Binger? And in the American Medical Directory for New York, New Jersey and Connecticut in 1939 and 1940 as Carl Binger, and that in the Directory of Medical Specialists you are listed as Carl Alfred Lanning Binger? Aren't those all substantially correct, Doctor?

A. I assume they are if you read them out. I don't know.

Q. You don't attach any significance to that, do you, as far as yours is concerned? A. Not diagnostic significance.

Q. Diagnostically speaking, yes. A. No.

Q. I don't suppose you would ever attempt to analyze yourself, would you? A. Certainly, I do that constantly.

Q. You do it— A. Nobody can be a psychiatrist who doesn't.

[3849] Q. Do you reduce your findings to writing? A. No.

Q. All right. Now in listing the various lies which you say are symptomatic of a psychopathic personality, I stopped you when you got as far as the House Committee, which was in 1948. Up to that time, Doctor, have you totaled up the number of lies that you have told us about?

A. I think through the WPA, counting separate items as separate lies, I totaled 20.

Q. Well, let us go into that just a second later, but that is up to 1937. A. That is right.

Q. 1937— A. That is, without the changes of names. I didn't count them.

Q. Well, assuming that your mathematics is correct, what we have then as a basis for a man who was born in 1901 up to the year 1937, a period of 36 years—how many lies did you say? 20? A. I counted 20, yes.

Q. What would par be? How many lies is the normal person entitled to have in 36 years?

A. Well, you have had more experience at that than I.

MR. MURPHY: Now, your Honor, would you instruct the witness to either apologize or withdraw that statement?

THE COURT: I don't think Dr. Binger meant any offense.

THE WITNESS: I meant you had more experience [3850] with liars than I, naturally.

THE COURT: I am sure he did not mean to say anything against you.

THE WITNESS: Certainly not. I couldn't tell you what par is.

Q. Well, can you even tell us what a normal person is, Doctor? A. Can I tell you what a normal person is? That is a very difficult thing to define, very. It is much easier to define a sick person than a normal person.

Q. Is this psychopathic personality contagious?

A. Is it contagious? I don't honestly understand that question, sir.

Q. Well, when they talk about diseases as contagious, would you say this would be contagious and in that sense?

A. Of course not.

Q. Doctor, when you were in Europe recently—that was 1948, was it, or 1947? A. 1948.

Q. 1948. You attended a conference, some group of doctors. I forget. What was the conference there, Doc-

tor? A. It was called the International Congress on Mental Health.

Q. And you delivered a paper there or made a speech? A. Yes, I did.

Q. And do you recall being interviewed later on by a newspaperman? A. Yes.

[3851] Q. I am going to read you an article from the New York Times and ask you whether it fairly represents what you had to say. It is the New York Times of Tuesday, August 17, 1948. It is a story by Mr. Benjamin Welles, with a London dateline August 16th, and it reads:

"Psychiatry Urged to Help in Policy

"Mental and Social Scientists Could Aid Foreign Ministries, Cornell Professor Says.

"By Benjamin Welles.

"London, August 16. The use of mental and social scientists at top policy-making levels of the United States State Department as well as in the Foreign Ministries of other governments throughout the world was urged here today by Dr. Carl Binger, associate Professor of Clinical Psychiatry at Cornell University, as a vital step in preventing war.

"In an address here before the plenary session of the International Conference on Mental Hygiene, Professor Binger asserted that social and medical scientists of the world should regard the prevention of war as their 'first and chief concern.'

"Saying that 'we must use our psychological insight to persuade statesmen and politicians to give us a hearing and act on our findings,' [3852] Professor Binger added:

" 'They would not think of trying to wage wars without the help of scientists—physical, medical and even now social and psychological—but they manage to get into wars which these same scientists might enable them to prevent.'

"Such scientists, Professor Binger said in an interview after his speech, should join policy makers in governments as expert advisers on 'psychological reactions' and on 'motives.' Just as language interpreters are needed at international conferences, he said, 'there is ample evidence

to believe that world leaders and statesmen should be expertly advised both on motives behind the policies of others as well as on motives and reactions often hidden beneath their own reasoning and judgment.'

"Professor Binger pointed to the 'bugaboo of communism,' which he said, was now spreading a state of 'neurotic anxiety' throughout the United States. Fanned largely by 'big business and by the vote getters,' this 'neurosis,' Professor Binger added, has become confused in public minds with the 'legitimate feat' of Russia and, under such conditions, he asserted, not only the people of the United States but also its leaders and [3853] policy makers are in danger of losing a rational, objective approach to world problems."

Did you say those things that were attributed to you, Doctor? A. I did not; I said them with the exception of one word. There was a miss—unfortunately a misprint in the paper. I said "legitimate fear" of Russia, not "legitimate feat of Russia. That was a most unfortunate misprint, and" I did nothing about it. I said "legitimate fear" of Russia.

Q. Is everything else substantially correct?

A. Perfectly correct.

Q. The part about the bugaboo of communism? A. Yes.

Q. Now these lies that we have totaled up, would you say as far as we have gone that they form this pattern of behavior? A. One evidence of it, yes.

Q. In other words over that long span of years, to your trained mind that exemplifies a symptom of lying which you attached to this Mr. Chambers in describing him as a psychopathic personality?

A. One of the evidences.

Q. Doctor, in all seriousness, when you use the words repetitive lying, aren't you referring to, say, where the child or a young adolescent comes and says one lie after the other; in other words, he said he was to school and he went to the movies, and he didn't do this and he [3854] did that, and it is just constantly and constantly wrong all

the time; isn't that what you mean by repetitive lying, day in and day out? A. Not necessarily, no.

Q. Well, let us suppose a mother brought a child in to you as a doctor and said, "Doctor, I can't—I don't know what to do with this boy. He is a—well, when he was six years of age he told me that he had gone to the corner grocery store and I found out that he actually didn't go there but he went to a neighbor's house; and then three years later he told me that he wanted ten cents to buy marbles and actually he wanted the ten cents to buy licorice; and three years later than that, Doctor, he told me that he wanted money to go to the movies, and I understand he just wanted to gamble with it." Doctor, as I understand it, are those repetitive lyings, or would you say to the mother, "why, I think you are the subject. I want to see you and not the baby"? A. It might very well be that the mother would be the subject, because very often the child's lying is due to the mother. So that might well be true.

Q. But doesn't repetitive lying mean, Doctor, a pattern of constant, repetitious lies without rhyme or reason? Isn't that what it means?

[3855] A. Not at all, not at all. If you will allow me to illustrate—

Q. If you would define it it would help. Tell us what you mean by repetitive lying. A. I will give you one example of a patient—

Q. No. You tell us, please, if you can, what you mean by the phrase repetitive lying; define the term. Perhaps we don't understand each other. A. Will you let me exemplify it?

Q. No, I would rather have you define it.

A. I would have to say then frequent lying.

Q. Frequent lying? A. Yes.

MR. MURPHY: Shall we adjourn now, your Honor?

THE COURT: I take it you are not finished with your cross-examination?

MR. MURPHY: No, I am not, your Honor.

THE COURT: Well, it is half-past four, so we will adjourn until tomorrow at half-past ten.

(Adjourned to January 11, 1950, at 10:30 a.m.)

[3856] New York, January 11, 1950; 10:30 o'clock a.m.
Trial resumed.

CARL A. L. BINGER, resumed.

Cross Examination Continued by Mr. Murphy:

Q. Now, Doctor, yesterday, on page 3776, in talking about the—I had just started to talk about the Breen application. I just want to read one or two questions.

"Q. Did you consider the purpose that Mr. Chambers had as a paid functionary of the Communist Party in getting the false passport in the name of David Breen?

"A. Surely.

"Q. And considering that purpose you came to the conclusion that that was some evidence of a symptom of psychopathic personality? A. Some additional evidence.

"Q. It was some evidence? A. In consideration of the fact that there were lies both before and after, yes; that the habit of lying seemed to be well established."

Now, Doctor, I am going to ask you whether the phrase that you used, "that the habit of lying seemed to be well established," is based upon the lies that you told us about up to 1935; is that what you had in mind?

A. No.

[3857] Q. Well, then, would you tell us, Doctor, or perhaps it would be better: would you explain what you meant when you said that the habit of lying seemed to be well established? A. I tried to take into account what I knew of Mr. Chambers' history, including the year 1948; I tried to take into account the many lies that he himself has testified to telling and that I was asked to assume in the hypothetical question, assume to be true.

Q. Then, Doctor, when you said that the habit of lying seemed to be well established, that was not a quite accurate summation of the lies that existed prior to 1935, then? A. As I said yesterday, one cannot arrest his his-

tory at any point and ask for a diagnosis. Obviously, I couldn't predict what the future would hold.

Q. But when you did use the phrase "the habit of lying seemed to be well established," when we were talking about the incidents up to 1935, did you mean that? A. I would say that was an inaccurate way of putting it.

Q. An inaccurate way? A. That is right.

Q. Yes. Now, would it have changed your opinion, Doctor, if you knew that when the Breen passport application was made that the information contained in answer to the questions on the State Department form all conformed to the birth certificates that he was supplied with by his superior? Would that tend to change your opinion that [3858] nevertheless it was a symptom of psychopathic lying?

A. It would not.

Q. In other words, the answers that he gave on the State Department form were not answers that he pulled out of the air any place; they conformed to these documents; that would not interfere with your opinion? A. He lent himself to that deception.

Q. Yes. But that would not interfere? A. No.

Q. You would still consider it one of the symptoms of psychopathic personality? A. That is right.

Q. Doctor, would it affect your opinion in any way at all if you knew that the testimony was that Mr. Chambers told his friend Mr. Hiss that he had obtained this passport in the name of Breen for the purpose of going to England to set up a Communist apparatus over there; would that disclosure to a friend include it or remove it from the symptoms in your opinion?

A. It would have nothing to do with it whatever.

Q. Nothing. Well, in connection with his application for the Government job in 1937, would it affect your opinion any if you knew or assumed that in the application for that job Mr. Chambers had the active help of two Communists, a man by the name of Silverman and a man named Levine? A. Do you want me to assume that he lied under oath to tell the truth?

[3859] Q. Yes. A. No, it wouldn't affect my opinion.

Q. In other words, if you knew that he went to two of his Communist friends who were then in the Government and asked them for help in getting this job, and they did in fact help him, that would not interfere at all in your judgment that that was a symptom of a lie that you could attach to a psychopathic personality?

A. It doesn't honestly seem to me to have anything to do with it whatever.

Q. Well, if he was a member of the Communist Party at the time and if he answered all of the questions truthfully and actually said that he was a member of the Communist Party, and that he had been a member for so long, he obviously could not have got the job. Now, if his purpose was to get the job and to purposely keep from telling the Government the actual state of affairs, would that still be in your opinion evidence of a lie that would be a symptom of psychopathic personality?

A. Well, I take it that his purpose was to destroy the Government of the United States, that he lied for that purpose.

Q. Oh no. His purpose, the testimony was, Doctor, was to get a job so as he could— A. I beg your pardon?

Q. —identify himself. A. Are you talking about the WPA or the passport?

[3860] Q. WPA. A. I am sorry.

Q. The testimony was that he had been in the underground— A. Yes, I know.

Q. —for a number of years. And he wanted to come above— A. Yes.

Q. —and to establish some identity. A. That is right.

Q. And that was one of the reasons he wanted to get that job. A. That is right.

Q. Would you still say that despite that reason that that would be some evidence of a symptom of psychopathic personality? A. Well, I am not attempting to pass on the nature of his lies. I am stating that he has told many

lies, that repeated lying is one of the evidences of psychopathic personality.

Q. Well, Doctor, don't you make a distinction as a doctor as to the reason for the lies? I thought you would be willing to concede, as you said yesterday, that if you were captured by your enemy and you were a soldier and you lied to your captors, that that would not be considered any evidence of psychopathic personality, would it?

A. It could be; it need not be.

Q. Well, I mean, can't we agree that lies are not ipso facto evidence of psychopathic personality? A. Lies by themselves are not evidence.

[3861] Q. Yes. And don't they— A. They are part of the evidence.

Q. I am sorry, sir. I did not hear that. A. Lies of themselves are not evidence; they are part of the evidence when taken into consideration with other evidences.

Q. But doesn't there have to be something more than the lie itself? Don't you have to sort of understand the reason or non-reason for the lie in order to attach this medical significance to it? A. It helps to understand.

Q. Well, doesn't it do more than help, Doctor? Doesn't it convince a trained mind that this is a lie that is clearly a symptom of psychopathic personality, whereas this lie clearly is not? A. One can never know enough about a patient, and certainly not about a person who has not been in treatment with you to know all the motives for his lying. One has to assume and guess and try to evaluate.

Q. Yes, but once you are acquainted with the fact of what the purpose was for the lie, doesn't that help in determining whether or not you can honestly include it as a symptom? A. If one knew the accurate purpose.

Q. Well, Doctor, you are here assuming things to be facts, so you just can't get behind them, you just have [3862] to assume that they are facts. A. Well, I have to assume what you tell me to assume.

Q. Yes. So that you can't even go beyond that any more; it isn't the same as if you had a man on a couch and were trying to learn all his inner thoughts. But assuming, Doctor, that the reason for the lie—here he was a Com-

munist wanting to come up out of the underground, he went to his Communist friends to help him and he got the job and of course did not tell that he had been a member of the Party for so many years and did not tell that he was the editor of the Daily Worker and things like that. Don't those reasons, in connection with the lies, help you to evaluate whether or not it actually is a symptom or not? A. Not really.

Q. Not really? A. No.

Q. Would it be fair to say, Doctor, then that if you merely had an adding machine and just went down all of the lies and totalled them up, that the sum total would be enough without knowing why? A. No, that wouldn't, either.

Q. In other words, supposing the witness could say, "Well, I have added all these up myself, Doctor, and it comes to around 166 in ten years, and there is no sense going into the reason why." Wouldn't that be enough? Could you start off with that?

A. No, that wouldn't be enough.

[3863] Q. You would actually, as a doctor, have to understand a little bit of the reasons, wouldn't you?

A. The more you knew the better.

Q. And can you tell us, Doctor, that there are some lies that you would not even consider in adding up the number of lies? A. You mean as pertaining to Mr. Chambers, or in general?

Q. In general. A. Oh, I find it very hard to answer questions in general about this. If you will give me instances, I will tell you.

Q. Doctor, let us suppose that one of the jurors at one time applied for a job, and they had to fill out a questionnaire, as some agencies ask you to do—in fact, the Government does—and one of the questions was your age, and one of the jurors said that he or she was 32 and was actually 35; and they asked about marital status, and the juror said that he or she was not married when the fact was otherwise; and then assuming that they asked for prior experience, and the juror did a little puffing, said that he was the chief of a particular section where

actually he was just the clerk—that type of lying; or supposing one of your patients said that he or she remembered doing that sort of thing at one time, would you consider that at all?

A. In this assumption am I to assume that the [3864] person is under solemn oath to tell the truth?

Q. I am sure I don't understand your question. The person we are talking about? A. Yes, the juror you are talking about.

Q. Oh yes. A. Under solemn oath to tell the truth?

Q. Yes. A. I think if a person was under oath it is to be taken into account more seriously than if he tells what is commonly called a white lie.

Q. Well, when you take it into account do you attach some significance to the fact that it might be evidence of a psychopathic personality? A. I don't want to bore you. I attach no significance to any single episode. It is the totality of the picture that I pay attention to.

Q. But the sum total, Doctor, is arrived at by the addition of all of these things; and I was trying to find out the weight attached to each particular one, because if we added up the weight on each particular one we could see whether we would agree with you as to what the sum total of the weight was.

A. Well, you know, you can change some of the notes in a melody, or drop out some, and you don't change the melody; and what we are interested in—I am interested in—in this diagnosis is a pattern of a life, such information as I have of it which extends for about 25 years in which certain events are apparent, certain [3865] kinds of behavior are apparent. Among those is the tendency to tell lies both in and out of the Communist Party. I do not dismiss the lies that he told when he was in the Communist Party.

Q. You don't dismiss them; you don't attach as much importance to them, can we say? A. That is what I think you said, Mr. Murphy. I didn't say that.

Q. I said? I thought you said you do not dismiss the lies that he told when he was a member of the Communist Party. A. That is right.

Q. Well, in not dismissing them do you attach as much importance to them as you do to the lies when he was not a member of the Party? A. Will you give me specific ones to compare?

Q. Well, can't we agree, Doctor, that a part of the dogma of the Communist Party is that lying is all right for lying's sake; whatever the purpose is, if lying will accomplish it, why, that is to be condoned and probably encouraged? A. Oh, I think we can go further than that. I think we can say lying and stealing and perhaps murder is all right.

Q. As part of Communist dogma? A. Yes.

Q. Well, if a person believed in all those dogmas, Doctor, would you say that that evidences a psychopathic personality? A. I think a Christian American who accepts [3866] all of those dogmas without question reveals something about himself which is certainly important. Now don't ask me to say that I think all Communists are psychopaths.

Q. That was my next question. A. I thought it was. I have not examined all Communists and I do not know; but if you believed that it was all right to murder and steal and to lie, knowing as I do that you are not that kind of person, I would say certainly pay very strict attention to it, to that fact, in my estimate of you.

Q. But, Doctor, a person who does it as a matter of idealism, where he or she is convinced in a philosophical ideal almost to—well, has that strong belief—and lies as part of the cause, do you attach to that person those lying symptoms and say, well, that is some evidence of a psychopathic personality?

A. Well, I find it very difficult, and I dare say you do, to reconcile lying and stealing and perhaps murder with any ideal.

Q. Doctor, we are not here dealing with ethics, really; I am trying to cross-examine you to ascertain just what is the basis that you used in order to express a professional opinion. It would be very nice to discuss ethics; I do not think this is the place. If you will tell us as best you can just what you thought of each of these particular symp-

toms, and let us add [3867] them up, Doctor, we can judge whether or not—well, we can judge the value of your opinion. A. Well, I can say that I include the lies told while he was a Communist even if under orders and even with the collaboration and help of his friends as lies.

Q. Well, assuming that you did that, Doctor, did you attach the same significance, as a doctor, to those lies as you did to the lies when he was not under such compulsion? A. Well, if I say not the same will you assume that I mean less?

Q. Well, that might be my next question.

A. They are not exactly of the same order, but I do not attach less significance.

Q. You are not willing to tell us the degree?

A. Beg pardon?

Q. You are not willing to tell us the degree that you attach to those lies? A. I would find that very hard to express in quantitative terms.

Q. In quantitative or qualitative? A. Quantitative. Qualitatively I would say they are identical.

Q. Well, Doctor, can we say that the reason for the lie, whether good, bad or indifferent, has some relevancy in your determination of its value as a symptom? Let us put it as thin as that—has some relevance.

A. I think that is fair.

[3868] Q. Yes, has some relevance? A. I think that is fair.

Q. And I think you told us yesterday that in connection with the ordinary white lies that parents tell their children that you would not attach much relevancy to those?

A. Well, conventional white lies I would attach no significance to.

Q. No significance? A. No. I told two yesterday.

Q. You told two yesterday? A. Yes.

Q. What were the two that you told, Doctor?

A. I was telephoned to, and when I got home I was tired, and told the maid to say I was out. Twice.

Q. I suppose actually the maid was the one who lied there? A. No. She did what I asked her to.

Q. She did what you said, told her to do?

A. Certainly.

Q. And you say that she was the one who lied, or you lied? I am not so clear. A. I said I lied.

Q. And if you tell somebody to do something, the one who does the telling is the liar, and not the one who actually speaks? A. Well, obviously I was the liar yesterday, not she.

Q. I was just trying to make an analogy as to what Mr. Chambers was doing. If Mr. Peters told Mr. Chambers to lie when he applied for the Breen passport, would you say that Mr. Chambers or Mr. Peters was the liar?

[3869] A. I don't compare a man of Mr. Chambers' superior intellect and education to our colored West Indian cook who will always do what I ask her to do.

Q. Well, Doctor, whether you compare it or not, my question was whether when Mr. Peters, Mr. Chambers' superior, told Mr. Chambers, as a paid functionary of the Communist Party, to do thus and so, my question is whether or not in your opinion as a doctor Mr. Peters or Mr. Chambers was the doer of the act.

A. Both.

Q. Both? A. Yes.

Q. So that if Mr. Chambers lied pursuant to Mr. Peters' direction both were lying? A. That is right.

Q. Although when you told your maid to do something that was not truthful, it was only you who lied?

A. Yes, because mine was a perfectly harmless white lie that did not do anybody any harm.

Q. So you determine whether or not a lie is harmless or non-harmless by the harm it does? A. Oh by definition. You say harmful or harmless. By the harm it does, obviously.

Q. Well, you determine whether something is a lie or not by the harm it does? Is that your test? Doesn't it have some relation to the truth? A. Not wholly. It is by the intent to deceive, by the implication. If you tell somebody you are not at home when you are at home [3870] and you want to rest, that does not do anybody any harm, and there is no great intention of deceiving, and that is an

acceptable social form called a white lie that anybody with any intelligence uses all the time.

Q. Those are the white lies that anybody uses? Doesn't the normal person lie occasionally, Doctor?

A. Well, I said that yesterday—

Q. I mean not white lies either. A. Certainly. He tells real lies too.

Q. Real lies? A. Yes.

Q. And you don't attach much medical significance to the act of a normal person who lies? A. A normal person who is reasonably healthy should feel badly when he lies. He should be conscience smitten and feel remorseful, and he should try not to lie, and he should not lie under oath.

Q. Well, if Mr. Chambers felt remorseful when he lied would that in your opinion, Doctor, evidence the attitude of a normal person, a normal healthy person?

A. Well, I think there are people who commit a crime and feel remorse and confess and go ahead and do the same thing all over again, and I do not regard that as very healthy.

Q. My question, Doctor, was not that; it was whether or not when Mr. Chambers said he was remorseful for having [3871] lied—I am referring now to the time he wrote to Professor Van Doren—would you say that that evidence of remorse was an exhibition of a normal healthy mind?

A. I think if he had confessed to the Dean that he had lied I would regard that as evidence of remorse. What he did was to confess to a friend of his, and I would hardly regard it as a confession. I think he was rather boasting. He said "I lied quite simply." If he had gone to Dean Hawkes and said, "Dean Hawkes, I am sorry, I told you a lie," I would regard that as a confession, as an honest act, and as certain evidence of remorse. But to tell somebody else about it and say "I lied quite simply," it seems to me it has no bearing on the question of remorse.

Q. Supposing instead of going to Dean Hawkes he went to Dean Hawkes' secretary and said, "Will you tell

the Dean that I lied, I am sorry"? A. Well, what do you want me to answer? What is the question?

Q. Well, would that exhibit remorse? A. It depends wholly upon his relationship with the secretary. If she was a girl friend of his it might not at all.

Q. Supposing there was no relationship except the ordinary relationship between students and a secretary of the Dean, Doctor? A. Well, I think it takes more courage and it would be more evidence of remorse to make [3872] an appointment with the Dean and say, "I am sorry, sir, I lied to you, but I would like to get into Columbia anyway for this and this reason." That I would regard as evidence of remorse, or whatever you want to call it, or a certain candor.

Q. You think the confession to his faculty adviser was not some evidence of remorse? A. Well, I don't want to argue with you. I do not look upon it as a confession at all. I think it probably was a kind of debonair boast—see what a smart fellow I am, I lied quite simply to the Dean. That would be my interpretation. I may be quite wrong about it.

Q. That is a medical interpretation? A. No, I can hardly call that a medical interpretation. That is a purely human interpretation.

Q. Well, yesterday we were up as far as the WPA job in your listing of the acts which you considered lies, and I asked you to stop, I think, at the House Committee, August of 1948. Now, what part of your hypothetical question, Doctor, did you assume as a lie in connection with Mr. Chambers' testimony before the House Committee?

A. Well, I assumed that he was under oath to tell the truth, the whole truth and nothing but the truth. Isn't that the form?

Q. That is right. A. The fact that he withheld [3873] evidence which he said he had against Mr. Hiss, the fact that he withheld the fact that he had documents purporting in his opinion to prove that evidence, I would regard as a lie, because he was under oath to tell the whole truth.

Q. In other words, he withheld proof of espionage?

A. And the fact that he had documentary—what he considered documentary evidence.

Q. I don't know why use the words "considered documentary evidence." Assuming, Doctor, that he had documentary evidence which proves espionage—

A. The reason I used the word "considered" is because I am still, unless you ask me to assume something else I am still assuming the hypothetical question in which I think it was phrased that he testified to that fact. Now if you ask me to assume that he had documentary evidence, naturally I will have to assume that. Now what do you want me to assume?

Q. Let us first find out, Doctor, whether or not my paraphrasing of what he did at the House Committee was correct; that he withheld proof of espionage, and that is what you characterize as another evidence of lying? A. In so far as he was under oath to tell the whole truth, yes.

Q. And then after that what is the next lie that we have? A. His statement here that he had either lied [3874] before the grand jury or in this trial.

Q. Well, you know what the circumstances were of that statement, don't you, Doctor? Mr. Cross said, "You said one thing in the grand jury and you said one thing here. Now it follows that one was a lie." That is as far as it went. A. And to that he said yes.

Q. Yes. A. So that I assume—

Q. In other words, he knew that only one state of facts could be true, either the state of facts that he told the jury here or the state of facts, or the facts that he told the grand jury? A. Yes, and when he said "Yes" do you want me to assume that he was telling the truth?

Q. I want you to tell us, Doctor, what you included in your hypothesis as a lie. A. Withholding the whole truth from the House Committee—

Q. Yes, we have that— A. —and admitting that he lied either before the grand jury or here.

Q. So that the question which you say is the basis of that hypothesis is the question we just talked about; in other words, Mr. Cross said "Well, either what you are

telling here is the truth or what you told to the grand jury was a lie." Now is that what you mean, Doctor, when you just said he was lying here or at the grand jury?

A. Precisely that.

Q. And, of course, the grand jury that Mr. Cross [3875] was talking about was the grand jury in October of 1948, not the testimony in December of 1948 when he disclosed the evidence of espionage. A. Presumably, yes.

Q. So that we have in two instances the withholding of the entire truth about espionage: once before the House Committee and once in the grand jury in October. Now what else, Doctor? A. When he was under oath to tell the whole truth?

Q. Yes. What else, Doctor? A. I think that brings it up to the present time.

Q. Now, Doctor, you say that that is evidence of lying because it is not telling the whole truth; in other words, it is telling only half the truth; is that what your statement comes down to? A. Not wholly because he denied having any evidence.

Q. No, but didn't you say that it was evidence of a psychopathic personality because he withheld part of the truth? Aren't those your words? A. Certainly not. I have not mentioned the words "psychopathic personality" for some time. I said these are additional lies.

Q. Well, did you in your characteristics the other day say that one of the symptoms of a psychopathic personality is the withholding of the truth?

A. I have mentioned deception as one of the symptoms.

Q. Well, specifically, Doctor, didn't you use the [3876] phrase "withholding of the truth"? A. I am sure you have the record. I probably did.

Q. Well, whether that is in the record or not, that is a symptom, isn't it, under the general genus of deception? A. Yes. But let me emphasize that this was a little more than withholding the truth because it was an actual denial.

Q. Doctor, I propose to show that when you used the phrase "withholding the truth" it must necessarily follow that when the withholding was no longer withholding but when it became evidence, then it must be the truth, because if he lied only by withholding the truth and then disclosed it, the balance was the truth; doesn't that follow?

A. No, I think that is a false syllogism, because I think it is withholding what he says is the truth. I have no idea of the truth.

Q. Doctor, didn't you tell this Court and jury that one of the symptoms of psychopathic lying was withholding the truth as part of deception? A. Yes. I am not speaking about any absolute truth. I have no idea if anything that Mr. Chambers says is true or false.

Q. And I suppose you have no idea as to what other people tell either? A. No, except what he says—he says he withheld the truth. That is what I am testifying to.

Q. No, withheld the evidence of espionage; and if [3876a] he withheld it, you have described it as withholding of the truth; and once it is divulged it follows under that syllogism that it is the truth, doesn't it?

A. That is dialectic. That has nothing to do with the fact.

[3877] Q. Well, whether it is dialectic or just ordinary logic, Doctor, it is a good syllogism, isn't it?

A. No. What he withheld is what he said was true, whereas he was under oath to tell what he believed to be true.

Q. Doctor, supposing you tell us again what was the evidence that you relied upon before the House Committee as being evidence of deception? A. Well, we know, for example, that he received stolen goods from Wadleigh.

Q. Oh, now, just a second. You probably didn't hear my question. I asked, what was the evidence you relied upon in connection with testimony before the House Committee? A. Mr. Chambers swore under oath that he had no knowledge of espionage.

Q. I think it was no evidence. A. Evidence?

Q. I think so. Either way, yes. A. Whereas he says later that he did have such knowledge.

Q. Or evidence. A. Or evidence. Whether he has or not obviously is not for me to decide. The fact is that he didn't tell at that time what he subsequently said he did know at that time and believed to be true. That is the basis of my statement.

Q. In other words, you say that where a man doesn't say everything he knows at the time he is obligated to tell everything he knows, he exhibits symptoms of withholding [3878] the truth and therefore a psychopathic personality?

A. It is another piece of evidence of tendency not to tell the truth even under oath, and under oath in a very solemn occasion I would think.

Q. Well, Doctor, did you take into consideration that the disclosure at that time would have been the naming of friends of his? A. I think that has nothing to do with it.

Q. Has nothing to do with it? A. No, not when you are under oath.

Q. In other words, as to a question of lying—I am trying to find out whether it had any medical significance.

A. I don't think so.

Q. It doesn't have any? A. No.

Q. In other words, if Mr. Chambers' purpose in saying what he did say before the House Committee was to alert the country as to the infiltration of Communism in the Government, as distinguished from hurting any individual, would you say that that was evidence of deception so as to add it to the symptoms of psychopathic personality?

A. I think when you are under oath before a House Committee to tell the whole truth and you don't tell the whole truth, no matter what your motive is, that that is another evidence of deception.

Q. Assuming that is so, Doctor, would you as a doctor, [3879] however, when it was explained to you the reason why the whole truth was not at that time disclosed was the feeling of the witness that he just couldn't hurt a friend—would you feel, Doctor, as a doctor, that even

though it was deception it was evidence of a psychopathic personality symptom?

A. I should want to know what motivated him in subsequently telling the whole truth and being willing to hurt them.

Q. Well, Doctor, supposing later on he was sued by the person he tried to befriend and in that lawsuit he was asked by that friend's lawyers to produce any written evidence, any correspondence, anything that he might have that would substantiate his defense to the truth, would that change your mind as a doctor as to what the original motive was, namely that he did not want to hurt a friend, that he was merely testifying so as to tell the country about the infiltration of Communism in our Government?

A. It would not change my mind.

Q. It wouldn't change it. Doctor, is there any way that the medical profession has of determining what the norm is in lying, that is, so you can distinguish between the normal healthy mind who lies occasionally and the one who has a psychopathic lying—psychopathic personality?

A. Well, certainly not by counting, or par, as you called [3880] it yesterday.

Q. You can't do it? A. Not that way, no. One has to take into account the whole life situation, as much of it as you can find out about, the pattern of the life, the behavior of the person as regards lying, stealing, deception, paranoid ideas, a great many other attributes of the personality. It is the total behavior that counts, and it is on that that I based the diagnosis. I don't think we will get very far by you asking me always to define whether one particular episode is the thing on which I base the diagnosis, because it is not.

Q. No, Doctor; if you got that impression I am sure I did not mean to convey it. What I wanted to do was to get your appraisal of each individual thing so that I could add up the total appraisal. I am quite conscious of the fact that you did not make a diagnosis on any one isolated fact. But if I could find out from you just how much significance you gave to each of the facts, then I could

have some idea of your total appraisal. In other words, if you said, as I went over a thousand facts I gave very little importance to that fact, and that was true of a thousand, I daresay that the opinion would not be a well considered opinion.

Did you consider, Doctor, in your analysis the fact that when Mr. Chambers applied for a passport in 1923—[3881] that was the time when he went to Europe in the middle of his college—that every statement in that questionnaire was gospel truth, did you consider that at all in taking into consideration his general life pattern?

A. Well, that was not in the hypothetical question, so it was not presented to me to consider.

Q. If I told you, Doctor, that that was one of the facts in evidence, that he did go to Europe with two friends or he met two friends over there from Columbia, at City College I think, and he did apply for a passport in 1923, using the name Whittaker Chambers, and he answered all of the various questions that the State Department asked, truthfully, and he was then— I am not too sure of the age, but 22 I think—would that have any bearing at all on your opinion had you been told that and assumed it as part of your facts?

A. Well, simply that he told the truth, and as I said yesterday, psychopathic personalities do tell the truth when it is convenient.

Q. Well, Doctor, you can't tell when it is convenient and when it isn't, can you, as a psychiatrist? A. Well, you have intimated to me some of the reasons why in connection with the Communist Party that it was convenient for him to tell lies and also before the House. I can only tell what you tell me.

[3882] Q. Well, Doctor, you use the words "when it was convenient," and I was talking about a passport application in 1923. What was convenient, as you used that phrase, to Mr. Chambers at that time? A. I suppose he had no particular reason to lie at that time.

Q. And if he had a reason, then it becomes a symptom, you say? A. If he had a reason, I would assume

from what I know of him that he probably would have lied.

Q. No. But I am trying to find out, Doctor, whether the reason, if he had a reason to lie, whether you would consider that as a symptom? A. I would consider the lie as a symptom.

Q. In other words, we are back where you say that you just consider the lies and you don't consider the reason?

A. I try to consider both, Mr. Murphy. I can't divorce one from the other. If he said that the moon was made of green cheese I wouldn't give it much consideration unless he believed it to be true.

Q. Now, Doctor, when you consider the sum total of the lies, from the notes that I have made I get about ten over a period of 1916 to nineteen—whenever the high school graduation day was, up until the October grand jury of 1948; if my mathematics are correct, Doctor, would you consider that cogent evidence of repetitive lying?

A. You include stating that his name was something that [3883] it wasn't?

Q. I have a note here where he said Charles Whittaker when he worked for his father; Charles Adams when he as a boy went down to Baltimore or Washington and then New Orleans, and I have a variety of names: Jay David Whittaker Chambers, Whittaker Chambers, and so forth.

A. Yes. How about the other names and his wife's name and his children's name?

Q. Well, I thought, Doctor, that we agreed that that was one lie, the Breen passport application, which I have—

A. Well, perhaps.

MR. CROSS: You have forgotten about Dwyer and Cantwell, haven't you? That was in the question.

THE WITNESS: And probably Crosley, as he admits.

Q. Well, of course the testimony about Crosley comes from Mr. Hiss.

MR. CROSS: Oh no, that is not right.

Q. Now—

THE WITNESS: I don't think that is entirely accurate, because I was asked to assume in the hypothetical question that he said he might have used the name Crosley.

Q. Yes, might have used. A. Yes.

Q. Yes. That isn't the same as using, is it?

A. No. Also Carl somebody. I have forgotten Carl's last name.

[3884] Q. Do you want me to add each of the names in order to bring my addition up higher, or can I just use that as one—the use of aliases while a member of the Party?

A. I think this is a futile procedure because I did not base my diagnosis on the statistical count of lies.

Q. Well, you did say that it is repetitive lying. I think that is one of the phrases— A. Yes.

Q. And that means repeating lies; it doesn't necessarily mean the same lie, does it? A. No, but you asked me to change that yesterday and I conceded that frequent lying would be all right.

Q. I was just trying to bring out to the jury whether or not the use of the word "frequent" is a correct word in describing lies over a period running over 30 years.

A. I can't give you a quantitative estimate of what would be frequent or what would not be. One has to take into consideration the nature of the lie and why it was told, to whom it was told, and his reaction to the lie, and a great many other things.

Q. Fine. That is very nice.

MR. MURPHY: Would you read that, Mr. Reporter.

(Record read.)

Q. Now, Doctor, let us analyze the stealing. I think you said that one of the characteristics that you took into consideration in coming to the conclusion that Mr. Chambers [3885] had a psychopathic personality was stealing; is that correct? A. Yes, sir.

Q. And as evidence of that you assumed that he stole some 50-odd books from Columbia University, and I

think it was eight from the public library? A. That is right.

Q. Those were the only instances relating to books that you relied upon? A. Yes, sir.

Q. Now, Doctor, does it make any difference in your diagnosis what the purpose of the theft was? A. I can't answer that because I don't know what you have in mind.

Q. Yes. Well, Doctor, let us suppose that— A. I am not trying to fence with you. I just can't answer it.

Q. Let us suppose, Doctor, that a lady was starving, actually starving, nothing in her stomach, had been that way for a couple of days, and she saw a loaf of bread in a grocery window and stole it, stole it to eat it, and she did eat it. Would you as an experienced doctor consider that stealing as evidence of a psychopathic personality?

A. This is one occasion?

Q. Yes. A. Certainly not.

Q. So that in regard to that question— A. I don't consider any one piece of evidence as evidence, as you must be tired hearing me say, but I certainly would not consider that stealing bread when you are starving as evidence of anything except common sense.

[3886] Q. Well, then, Doctor, I suppose the purpose that is behind the stealing, if it is stealing, has some relevancy to your consideration? A. Are you asking me to assume that Mr. Chambers was starving for books?

Q. No. If you remember the question, Doctor, it said, I suppose the purpose behind the stealing has some relevancy? A. Well, as an instance in the case of the woman who was starving, certainly.

Q. Doctor, you don't determine whether the purpose is applicable or not after you hear the fact, do you? Don't you determine as a doctor that the purpose has some relevancy before you hear the fact? A. I think that is fair, yes.

Q. Yes. If the purpose of Mr. Chambers in taking books from Columbia Library, where he was a student, and bringing them home was to read them and not to sell them, say, would that have any relevancy in your determination

as a doctor of that episode? A. No, because there are other ways of getting books from the library rather than stealing them and keeping them.

Q. Can I say that it had no relevancy at all in your consideration of that incident? A. That the purpose in that instance had no consideration?

Q. Yes. I said if you would assume, Doctor, that the purpose in taking books from the library was for the [3887] purpose of reading them and not selling them, whether that purpose would be considered by you in your analysis? And I think that should be yes or no. A. If you put it that way, Mr. Murphy, I think the purpose to sell would be certainly different from the purpose simply to read.

Q. And you assumed, Doctor, didn't you, in your analysis that there was no purpose of selling? A. Well, I hadn't thought of that. I would assume that. I would be glad to assume that.

Q. And you knew, Doctor, that by that time he was quite a well read youngster? A. I assume so, yes.

Q. And you assumed too, Doctor, as part of the facts that he permitted a voluntary search of his home to those public library officials who were looking for the books, looking for library books? A. I haven't heard anything about its being voluntary. I suppose it was. That wasn't in the question. I don't know anything about that.

Q. Assuming that was a fact, Doctor, that the men said, "Can we look in your home?" And he said, "Of course," and they went to the home, would that have any relevancy at all?

A. No.

Q. And bearing in mind that what they were looking for were public library books and didn't find any in his home, would that be some evidence that he was telling the truth then? A. About what?

[3888] Q. Whether he had taken public library books.

A. No, because they did find some in his locker.

Q. But in his home, my question was, Doctor.

A. Well, he was telling the truth about not having them at home, yes.

Q. They had already found the books in the locker.

A. Had they? I was not aware of that.

Q. Doctor, assuming that it was merely a violation of the library regulations to have library books in your locker, would you consider that evidence of stealing by an employee? A. No, I wouldn't say so.

Q. No. All right. And you know, Doctor, don't you, as a fact, because of your years in college and in graduate school, that some students do take books unauthorized, without authorization? A. Yes; there wouldn't be many books left in a college library if students took 54 books apiece.

Q. If you will confine yourself to my question, my question was— A. Yes, I do know—

Q. You do know that— A. I do know that some students take some books.

Q. Yes, of course. A. I am sorry, I didn't mean to—

Q. Now, what other evidence of stealing did you have in your hypothetical question upon which you relied in order to say that there were symptoms of stealing?

[3889] A. Simply the receiving 200 or more documents from Wadleigh, which Wadleigh has admitted stealing.

Q. Well, I don't think, Doctor, that you have got that evidence quite correct. As I recall the evidence, Wadleigh consistently, repeatedly told Mr. Cross that he was not stealing the documents. Now, assuming the facts to be these, Doctor—

MR. CROSS: Now, if your Honor please, I don't think Mr. Murphy meant to state that Dr. Binger does not have the evidence correct. Dr. Binger was giving his opinion upon his observation and books and upon an assumed state of facts which were read to him, and I think that Mr. Murphy's statement as to what the evidence is is improper in this way, particularly when it is contrary to—

Q. Well, rather than get into an argument as to what the evidence is, Doctor, assuming that Mr. Wadleigh testified that over a period of some years, I think two,

maybe longer, he was in the habit of taking State Department documents from his desk once every week or two and bringing them either to Mr. Chambers or to Mr. Carpenter for the purpose of having them photographed and then returned the next morning, and the testimony was that in every instance they were in fact returned the next morning. Would you then, Doctor, under those assumed state of facts ascribe the temporary receipt by Mr. Chambers for the purpose of photographing [3890] them as evidence of stealing? A. Certainly.

Q. Now would you, Doctor, if the testimony was that Mr. Hiss over a period of many months took State Department documents to his home and they were there copied on a typewriter and the documents themselves were returned to the State Department but the copies were handed to Mr. Chambers, would you consider that evidence of stealing?

A. Certainly.

Q. Now, Doctor, if that is the evidence of stealing that you have and you couple that with the incident about the books, is that all the evidence that you have that you relied upon about stealing? A. That is all.

Q. So that, Doctor, if it is not a fact, legally speaking, that the documents when they were in the possession of Mr. Chambers and returned the next day, was in fact stealing, would you say that the only evidence that you rely upon is the incident about the books at Columbia and the library books? A. I don't understand the qualifying clause "legally speaking."

Q. Well, Doctor, if there is as a matter of law no proof that it was stealing as that—that is the legal word, "stealing"; if there is no legal proof— A. It is also a word in common use. I think most of us know what stealing means. It is not only a legal word.

Q. If people would disagree with you that that was in [3891] fact stealing, don't you have to admit that the only evidence of stealing that you have upon which you have based this diagnosis with regard to stealing, is the incident about the books? A. Mr. Murphy, if you ask me to assume that he didn't steal or receive stolen information

from Mr. Wadleigh, I will have to assume that then the only other evidence is the books.

Q. Doctor, I didn't say to assume that he didn't receive stolen information. I said assume that people would disagree with you that Mr. Chambers was stealing; the only evidence that you would have left would be the incident of the Columbia books, isn't that correct? A. Yes, except—

Q. Assuming that the stealing was done only by Wadleigh and Hiss? A. Except for the words "people would disagree with me," will you tell me what you want me to assume and I will try to answer you as honestly as I can, regardless of what people would agree.

Q. Yes. Assuming that Wadleigh and Hiss were the thieves and Chambers was merely the recipient of what they each stole, and all he did was to photograph, would you have the same opinion about Mr. Chambers having a psychopathic personality because he had symptoms of stealing?

A. May I ask you a question?

Q. I don't think so, Doctor, no. A. Well—

Q. If the question isn't clear I can try to clear it up.

[3892] A. Well, in the eyes of the law, receiving stolen goods is tantamount to stealing, is it not?

Q. Well, I suppose whether I said no or yes to whether you could ask me a question, this is the question anyway.

A. That is right.

Q. Well now, Doctor, just for these purposes let me ask the question. A. All right.

Q. Assuming that Mr. Hiss and Mr. Wadleigh stole the papers and all that Mr. Chambers did was to photograph them and never had the papers in his possession for more than overnight, would you say that in your opinion was one of the stealing incidents that you had in mind, and we can go to something else? A. I would.

Q. All right. And we have an incident in 1925, I think it was, perhaps '26, of the Columbia books, and then the next incident we have, according to your interpretation, is 1937, '8, '36, so that we have a period of ten years or so

where you have no evidence of stealing, but nevertheless you as a doctor take those two instances and use them as symptoms; is that correct, Doctor? A. I think they are very important.

Q. But you do take them and add them up and add them to your characteristics of the psychopathic personality?

A. Yes, sir.

Q. Doctor, would it make any difference in your opinion [3893] that it was the accepted practice of Communist espionage agents to do what Mr. Chambers was doing—would that make any difference at all in your diagnosis if he was performing what was common accepted practice for Communist underground agents? A. It wouldn't.

Q. It would not? A. No.

Q. Would you say, Doctor, that the taking of anything that is not yours is some evidence of psychopathic personality? A. Well, you gave a very good example of taking a piece of bread when you were hungry. I don't think that is—

Q. Did you ever take a hotel towel or a Pullman towel?

A. I couldn't swear that I had or hadn't. I don't think so.

Q. Well, if you did, Doctor, or if one of the jurors did, would you say that was evidence of a symptom of psychopathic personality? A. It would have no bearing on it.

Q. It would have no bearing? A. No.

[3894] Q. Now, Doctor, you also described as one of the characteristics the trait of insensibility to the feelings of others; that that is one of the characteristics of a person who has a psychopathic personality; and I think you cited the play that Mr. Chambers wrote in college called "Play for Puppets" and I think you said, Doctor, that the reason that that was a symptom was that it showed—I am not too sure of the phrase—a disregard for the feelings of Christians; that it offended them; isn't that what you said? A. Well, it seemed to have offended them.

Q. Sorry, sir? A. It seemed to have offended them because he was asked to leave Columbia as the result of it.

Q. And I think Mr. Chambers himself said on the stand that he thought it was a highly insulting piece of work; did you assume that? A. That was not in the hypothetical question.

Q. I think he said it was highly offensive. Doctor, do you feel that anybody who does or says anything that might be taken by others as offensive is a symptom of psychopathic personality? A. No, we all do that all the time.

Q. Would you say that in order to classify it as a symptom it has to have a real purpose, to be offensive?

A. No, it has to have a certain callousness, a [3895] certain obvious lack of consideration for the kind of feelings that most people would appreciate.

Q. Well, Doctor, do you say, for instance, that Anatole France was a psychopathic personality?

A. I have never made a study of him.

Q. Well, you have read some of his books, haven't you, Doctor? A. Two things I have read: Penguin Island—

Q. Well, let us take Penguin Island— A. I don't know it well enough to have any real idea.

Q. Don't you think that was pretty offensive to certain types of religious people? A. I am sure it was.

Q. And would you say, therefore, that he, Anatole France, was a psychopathic personality because of that?

A. I do not make a diagnosis on one piece of evidence. If I knew all the rest of Anatole France's life I might have some view, but I do not, and I have no opportunity of finding out.

Q. I think you said, Doctor, that what you took into consideration here in connection with the "Play for Puppets" was the fact that it was written immediately before Christmas—I think that was one of the facts—

MR. CROSS: No, written in the summer and published just before Christmas.

MR. MURPHY: Written in the summer and published just before Christmas; I am corrected on that.

[3896] A. Under the name of John Kelly.

Q. Yes, but I mean, it was all of the facts, one, the play itself; and two, it was written in the summer and published right before Christmas; and, three, he used the pen name John Kelly. A. But it was mostly the content that was offensive, obviously.

Q. Well, I am going to develop the right-before-Christmas part. Well, when was it, Doctor, that you assumed it was published when you said it was published right before Christmas? A. In the photostatic copy that I have seen of the magazine it was the November issue.

Q. In other words, if you picked up a copy of the Cosmopolitan today and saw February on it, would you immediately think that it was February? A. No.

Q. Isn't it a fact, Doctor, with magazines to sort of predate them? A. In what sense do you mean, sir?

Q. Well, just take the magazine I mentioned. Don't you read a February magazine early in January?

A. Yes, the February issue comes out in January.

Q. And you don't know that that is what happened here with the Columbia magazine? A. No, I don't.

Q. Doctor, if I told you that in one of the Columbia papers, the Spectator of October 23, there was a comment about the play, that would indicate to you that at least it was published around that time, in [3897] October? A. Well, unless the person who wrote the comment had seen the manuscript or knew about it before it appeared.

Q. No, but if the comment said that the first issue of the Morningside was out yesterday and it contained A, B, C, D, E and F, and that was dated October 23, that would indicate to you that the November issue of the Morningside was published on, say, at least October 22? A. Yes, it would.

Q. And if those were the facts, Doctor, would you say that that was right before Christmas and should be one of the considerations? A. No, I would not.

Q. And I take it the pen name John Kelly has significance because it was Irish? A. I would think it had some significance for that reason. None of those considerations—

Q. Not too much? A. No.

Q. Well, are you familiar with what Professor Van Doren thought about the play? A. Well, that is not in the hypothetical question?

Q. No, but are you familiar with it? A. I think he thought it was pretty clever.

Q. Very brilliant, wasn't it? A. I don't remember the word "brilliant." You tell me, I will be glad to hear.

[3898] Q. Well, Doctor, can we say that reading a play or a book by someone helps you to determine whether or not they are psychopathic? Can you tell from reading a play or book whether the author is psychopathic?

A. Not from that alone, certainly not.

Q. Not from that alone? A. Certainly not.

Q. This was merely one evidence of the number of symptoms that you had in connection with Mr. Chambers? A. I spoke of it as being evidence of insensitivity to other people's feelings.

Q. Yes, I mean it was one of the things. By itself you would not form any opinion? A. No.

Q. It is the sum total of the matters that you assumed in your state of facts? A. That were presented to me in the hypothetical question.

Q. Well, Doctor, would you say a person who said this was insensitive of the feelings of others: "Our Catholic subjects are relatively happy, free from neurotic symptoms, blissfully self-deceived, superficial in their psychological discernments, always competent to clothe raw facts in the rational vestments of their faith. In these respects the Jewish subjects were outstandingly different. Most of them were highly self-conscious, relatively insecure, burdened by neurotic complexes; painfully aware of disturbing [3899] impulses and feelings, psychologically penetrating, and unusually quick to comprehend (and often to accept) even the least flattering interpretations of their behavior. They were not contained by their religion and they never made use of its symbolism in depicting their difficulties."

Would you say that would be offensive to certain types of people? A. I don't see why it should be.

Q. You don't think so? A. No.

Q. Do you know who said it? A. No.

Q. Dr. Murray. Now, would you say that this phrase would be insensitive to the feelings of others, that "Every really good wife is partly mother, sister, psychiatric nurse and courtesan"? A. Would I say that was offensive?

Q. Yes, that the person who said that was insensitive to the feelings of others, to call a woman both a mother and a prostitute. A. Well, since I said that myself I could hardly say it was offensive.

Q. You don't think that that is an exhibition of insensitivity to the feelings of others? A. I certainly do not, because I think it is the truth.

Q. Would you say that when Mr. Chambers, testifying in the House Committee, said:

[3900] "The story has spread that in testifying against Mr. Hiss I am working out some old grudge or motives of revenge or hatred. I do not hate Mr. Hiss. We were close friends but we were caught in the tragedy of history. Mr. Hiss represents the concealed enemy against which we are all fighting and I am fighting. I have testified against him with remorse and pity, but in the moment of history in which the nation now stands, so help me God, I could not do otherwise."

Would you say, Doctor, that that was a statement of someone who has a certain insensitivity to the feelings of others? A. I think it is a statement that reflects a certain kind of grandiosity which we find in others of his statements.

Q. My question was, does it convey to you, as an experienced doctor, the impression that there was a man who was insensitive to the feelings of others?

A. If that were a sincere statement I would say no.

Q. You have no evidence, Doctor, that you rely on, have you, that it was insincere? A. No.

Q. Doctor, when you said that one of the things that you considered as a symptom of this insensitivity to the feelings of others was the fact that Mr. Chambers lived in an illicit relationship with Ida Dailes, and that he took her to the home of his mother—did you know, [3901] Doctor, as part of your assumed state of facts that at that time

each, Mr. Chambers and Ida Dailes, were each Communists —did you know that? A. I did.

Q. And did you know that the testimony was that Communists at that time thought that marriage was a bourgeois convention? Was that part of your assumed state of facts?

A. Was his mother also a Communist?

Q. Perhaps you didn't hear my question, Doctor—did you? A. I did. But the insensitivity—

Q. The question is, did you know that at that time Communists thought that marriage was a bourgeois convention?

A. Did I know that?

Q. Yes. A. I did know it.

Q. As part of your assumed state of facts? A. Yes, that is right.

Q. And did you know further that the bringing of that woman to the home of his mother was at his mother's request, she having said that she had lost one son by suicide and she did not want to lose another; did you know that, Doctor, when you said that that was one of the evidences of the insensitivity to the feelings of others?

MR. CROSS: If your Honor please, I don't mind Mr. Murphy asking Dr. Binger to assume anything; but I do object to the misstatement of testimony. There is no [3902] such statement in this case.

Q. Well, Doctor, if you will assume that that is the fact, that Mr. Chambers brought Ida Dailes, a fellow Communist and the woman with whom he was living, to his mother's home at her request, would you say that that was evidence of the insensitivity to the feelings of others?

A. If it was at his mother's request I would not say so.

Q. And, Doctor, don't you know too—did you form any opinion, Doctor, because of the fact that they were living together, just by itself, as man and wife?

A. No.

Q. That was condoned by the State of New York, wasn't it, at that time? A. That I don't happen to know.

Q. Well, common law marriages were accepted as part of the law of this land, and still are in many states. A. I am not very conversant with the law. I am willing to take any statement you make about it as true.

Q. Well, you have heard in your talks with others of such a thing as common law marriages? A. Yes.

Q. Would you consider, Doctor, the actions of Mr. Chambers in resigning from his job at Time and giving up a $30,000-a-year job, assuming, Doctor, that he did that because he did not want to hurt the people with whom [3903] he was associated, or hurt the magazine itself, didn't want to embarrass them, and he did it voluntarily, that that was evidence of a man who was insensitive to the feelings of others? A. If you ask me to make that assumption?

Q. Yes, assuming that is true, Doctor.

A. No, then I would not.

Q. What other acts, Doctor, did you assume in your state of facts to come to the conclusion that Mr. Chambers evidenced symptoms of insensitivity to the feelings of others other than the play, The Play for Puppets, and this Ida Dailes incident?

A. Just those two.

Q. Just those two? A. Yes.

Q. And if you assume that he went to the home of his mother at his mother's request, you would have just The Play for Puppets? A. That is correct.

MR. MURPHY: Shall we have a recess now, if your Honor please?

THE COURT: Yes.

(Short recess.)

[3904] BY MR. MURPHY:

Q. Doctor, did you say that the only criterion you have to determine whether a person is a psychopathic personality is whether a person's behavior is bizarre or queer? A. I said nothing like that. I said that about behavior, about bizarre behavior.

Q. In other words, that is an accurate definition of bizarre behavior as distinguished from a definition of a psychopath? A. That is no definition of bizarre be-

havior. I said the test we have of bizarre behavior is to compare it with the behavior of ourselves and other ordinary people.

Q. On page 3680: "A. Bizarre behavior and impulsive acts, yes, sir. May I define what I mean by that?

"Q. Yes. A. By bizarre behavior I mean strange, queer behavior, behavior that the ordinary person does not indulge in. That is the real test we have for what is strange and what is queer. Does it seem reasonable and plausible?"

That is what you said, Doctor. A. Yes, but that is not the question you just asked me.

Q. Yes. I did it wrong. You were defining bizarre behavior? A. That is correct.

Q. Now, would you say that the study of French and German by yourself would be bizarre behavior?

[3905] A. I would not say that.

Q. Would you say that the slanting of news stories would be bizarre behavior? A. I think that is an acceptable form of behavior in the journalistic trade.

Q. So that would not be bizarre? A. It would be to me but not to the people who do the writing. I am sure that what I do would be bizarre to them.

Q. Doctor, you said that in determining what is an example of bizarre behavior is whether or not the reasonable person does it; isn't that the test more or less? A. That is pretty much it, yes.

Q. Now, the living in a common law relationship with Ida Dailes—is that bizarre? Was it bizarre? A. I wouldn't say so.

Q. I think you said that leaving Williams College impulsively was bizarre. A. I think leaving on a night train after having been there two days and suddenly changing your mind is certainly not very reasonable or deliberate or the way you would expect a more rational person to behave. That alone is not a conspicuous example of it.

Q. Well, is it bizarre, Doctor, under your definition? A. Relatively.

Q. Relatively? A. Yes.

Q. When you testified you said that he left—I [3906] think you said he left impulsively. Did you assume that as one of the facts, that he left impulsively?

A. Yes.

Q. Doctor, assuming that it was two or three days, and that his roommate had bought some secondhand furniture to furnish their room, and then one evening there was a sort of a freshman dinner to which they each were invited, and he told his roommate that he did not want to go, that he had a problem that he had to think out, and he did not, in fact, go; he told his roommate that he was going to consult the Scriptures—would that be bizarre behavior up to that point?

A. No.

Q. Of course not. Reading the Scriptures would not be bizarre, would it? A. Well, to a man who thinks of himself as an atheist it might be, but certainly not ordinarily.

Q. Well, Doctor, this was in the beginning of his college career. A. Yes?

Q. Did you assume that he was an atheist then? A. No.

Q. So that reading the Bible in an attempt to solve a problem, you do not consider bizarre? A. No, it might be quite the reverse.

Q. What is the reverse of bizarre? A. Sensible.

[3907] Q. Sensible? A. Yes.

Q. And you said that what was bizarre was the fact that he left at midnight to catch a midnight train. Do all people who catch midnight trains, Doctor, exhibit bizarre behavior at all? A. They could. They don't need to necessarily. It depends upon why they do it.

Q. Doctor, you have been in the Grand Central at midnight, haven't you? A. Yes.

Q. All those people running and scurrying for trains, you would not ascribe to them bizarre behavior?

A. I wouldn't have any idea what the meaning of their behavior was.

Q. Doctor, if a train left at midnight to go to New York and he got on the midnight train, isn't that what any

reasonable person would do? A. Yes, if the train left at midnight and he got there at one o'clock it might be bizarre behavior.

Q. Doctor, the testimony is that he got a midnight train; nothing bizarre about that by itself, is there?

A. Nothing whatever.

Q. And I think you said that one who consults the Bible—I think George Washington consulted the Bible at Valley Forge when he had a problem, didn't he?

A. That is correct.

Q. Now, Doctor, you said that another evidence of [3908] bizarre behavior was the fact that he had written—I think the phrase you used—a good many letters to his roommate, and in one of the letters he asked the roommate to go to the post office and to get another letter and to re-address it to him or to mail it to him. You did not assume in your state of facts, Doctor, what the contents of those letters were, did you, the six letters?

A. There is certainly nothing bizarre about writing letters to your ex-roommate, and I did not use that as an example of bizarre behavior.

Q. You did not? A. No, not the writing of the letters, no. I did assume—

Q. The bizarre behavior was the writing of the one letter, asking him to go to the post office and open a letter and re-send it, or something? A. One letter not addressed either to his own name or to his roommate's name but to another name.

Q. But if those are all the facts that you know and the jury knows, Doctor, about that, one letter, is that sufficient for you to say that that was bizarre, that that was not what a reasonable person would do?

A. I don't think a reasonable person would write a letter to somebody who was not at Williams and who was not his roommate and then ask his roommate to go to the post office and send the letter back to him.

[3909] Q. Well, without anything more, Doctor, do you have enough facts to describe that as bizarre behavior?

A. I think just the fact that I have stated I would regard as bizarre.

Q. Really? A. Yes.

Q. Well, would you describe as bizarre the fact that a person would save over a period of many years an ordinary window envelope? Do you know what a window envelope is, Doctor, with a little piece of isinglass so you can read the address from the letter proper?

A. Yes.

Q. Would that be bizarre behavior, just saving an envelope, that type of envelope for a long period of time?

A. I would have to know what it was all about. It might be and it might not be.

Q. Of course. And wouldn't you have to know more about the letters to really attribute to that one letter whether or not the action was bizarre or not?

A. I am not talking about the letter; I am talking about writing one letter to a person under another name and to a person who was not at Williams, and asking his roommate to get the letter and send it back to him.

Q. Doctor, if you know nothing more about it is that enough for you to say as a doctor that it is bizarre?

A. Well, it is suggestive.

[3910] Q. Suggestive? A. Yes.

Q. Now, what you did describe as bizarre, Doctor, was the giving of rather important papers, Mr. Chambers handing over important papers to his wife's nephew, whereas the ordinary, reasonable, normal person would have put them in a bank. Did you know, Doctor, or did you assume that that person who received the papers was an attorney practicing here in New York City and a relative of Mr. Chambers? Did you know that the papers were handed to him? A. At that time he was an attorney?

Q. Yes. A. I have heard that he was a lawyer.

Q. In describing the actions as bizarre do you say now that the giving of valuable papers to an attorney and telling the attorney to keep these in a safe place, "and if anything happens to me, disclose them"—is that bizarre behavior, Doctor? A. I think one has to take into account the nature of the papers, what was involved in the papers; and also the fact that he then testified that he had forgotten about their existence.

Q. Well, let us treat each separately, Doctor, if we can. Do you say to this Court and jury that when a person gives papers that he attaches value or significance to to an attorney, and the attorney is also a relative, that that fact manifests bizarre behavior?

A. Not on that assumption, no.

[3911] Q. So that it is consistent with those people who would put it in a bank to give it to an attorney?

A. Of course, you are asking me to assume part of the truth and not all of the truth. But in so far as you have gone—

Q. Wait just a minute, Doctor. I did not know that you were able to tell which was part of the truth and which was not part of the truth.

A. By "truth" I mean what I have been asked to assume in the hypothetical question.

Q. Doctor, assuming that the testimony in this case shows that Mr. Chambers sometime in 1938 gave some of these papers that are in evidence here to his wife's nephew, who was a duly licensed practicing attorney in this city, with instructions to keep them for safekeeping, and if anything happened to him to disclose their contents—now, as far as I have gone I think you have to agree with me, Doctor, that that is not bizarre behavior?

A. I do agree with you.

Q. Now, you say what is bizarre is the assumed fact that he said he had forgotten he had them?

A. That is right. Papers of such tremendous importance.

Q. Now, do we have bizarre behavior evidenced by forgetfulness; in other words, by the absence of act? A. Yes.

[3912] Q. You do? A. Yes.

Q. Would you say that it was bizarre behavior when he went in 1948 to his wife's nephew and asked for what he had given him in 1938—is that bizarre?

A. No.

Q. Now, you have attached significance to the fact and described it as bizarre behavior, the fact that Mr. Chambers left a typewriter in a streetcar or elevated in

1940. Doctor, is it bizarre behavior for people to destroy or to get rid of things, physical chattels that remind them of the past? Is that bizarre behavior?

A. No. I think abandoning a typewriter on a streetcar which you have carried here from Baltimore in order to forget the past is not the way the ordinary man behaves.

Q. You knew, of course, Doctor, or assumed in your state of facts that he was then working on Time and living on a farm in Maryland, didn't you? A. That is right.

Q. And that he commuted each week, stayed in New York a number of days and then went back to his farm; there was no testimony that he took the typewriter specifically with him, that he just took it as part of the trip and abandoned it. A. Yes.

Q. So the significance you attach is the abandonment on a streetcar or subway, or wherever it [3913] was? A. That is right.

Q. But the ordinary person, Doctor, who discards something that reminds him of the past—is that bizarre behavior by itself? A. No, it need not be.

Q. Thousands of women throw away their wedding rings in Reno, don't they? A. I would believe it if you told me so.

Q. Well, you know it as a matter of common knowledge, don't you—as a fact? A. I never thought of that but I guess it must be true.

Q. Now, assuming, Doctor, that Mr. Chambers wanted to get rid of this typewriter because it had been given to him by his Communist conspirators early in 1930, and it was reminding him of those horrible days when he was a Communist, but rather than destroy it he wanted to let somebody get some use of it, and he left it in the streetcar so that somebody could get use of it, and then he would not have it traced back to him but somebody would get some use of it—would you say that that nevertheless was bizarre?

A. Is that what you want me to assume?

Q. Yes. A. It is certainly unusual behavior.

Q. Yes, but doesn't it also show, Doctor, a man who just can't let things be destroyed; somebody could get use

of a thing like that, and doesn't that manifest [3914] a sort of a kindly spirit? A. If you want me to assume that I will have to assume it.

Q. Well, yes, assuming those are the facts, Doctor. A. I still think it is very unusual kind of behavior.

Q. Well, doesn't it also express a rather likable spirit too? A. You might interpret it that way.

Q. Do you? A. I interpret it as very extraordinary to abandon a typewriter on a streetcar.

Q. Now, Doctor, you said another exhibition of bizarre behavior was the putting of the microfilm, the developed strip and the undeveloped films in a pumpkin. Can you think of any similar act during our American history where somebody else did a somewhat similar thing?

A. No. You will have to tell me. I can't remember.

Q. Do you remember, Doctor, during the Revolutionary times when they put the charter in the charter oak up in Hartford to hide it from the British? A. Yes, I do.

Q. Were the actions of those people at that time bizarre in hiding it in a tree, just an old paper?

A. Well, that was a very primitive community and in older times, and they did not have repositories for valuable documents, and I can see the analogy but I still regard hollowing out a pumpkin and putting microfilms in it as sufficiently bizarre so that when I read about it I was immediately arrested by the fact, as were [3915] a great many other people, because it is not the way a modern Twentieth Century human being, even living on a farm, usually behaves.

Q. Now, Doctor, you have said something there and I don't know whether or not you meant to say it. You said when you read about it. You are testifying here exclusively, I take it, on the hypothetical question and your observations in court?

A. That is right.

Q. And when you read about it you are referring, I take it, to some newspaper article?

A. That is right.

Q. And that did not interfere with your judgment when you expressed your opinion as a doctor here, did it?

A. I have done my utmost not to let anything interfere with my judgment.

[3916] Q. Well, you did not include the knowledge that you have acquired from reading newspapers— A. No, no.

Q. —when you gave us your opinion here?

A. Certainly not.

Q. Is it safe to say, Doctor, that you excluded from your mind all extraneous evidence and relied on your observations and the assumed facts in the hypothetical question? A. In so far as that is psychologically possible I have made every effort to do so.

Q. You say that a man who was living on a farm in 1948, who puts pretty valuable papers in a pumpkin that he has hollowed out right by his door, is bizarre? A. I say the act is bizarre.

Q. The act is bizarre? A. Because it is unusual. Perhaps there is one other example in history that you have given.

Q. If, Doctor, you assume that these microfilms were previously in his house and he moved them from room to room, and that the day that he put them in the pumpkin was the day that he was going to leave his farm, and assume further that there were different people in and about the farm looking for things, wouldn't you say, Doctor, that that was a pretty good hiding place?

A. It was.

Q. No matter how bizarre it was? A. It certainly was [3917] a good hiding place, yes.

Q. All right. As a matter of fact, don't you remember reading, Doctor, that when Benedict Arnold sold out West Point and gave the plans to Major Andre, do you know where he put the plans when he was caught, just up here by Tarrytown? A. No, I don't.

Q. He had them in the boot of his shoe, the sole of his boot. Was that bizarre on the part of an intelligent British officer? A. No, I wouldn't say so.

Q. Well, how about the mother of Moses hiding the little child in the bulrushes? Was that bizarre?

A. Well, she could hardly put it in a safe deposit vault.

Q. Now, Doctor, you don't tell us that all things that don't fit in safe deposit boxes are therefore bizarre, do you? A. No, I don't.

Q. I am asking you, Doctor, whether the action of Moses' mother in putting the young child in the bulrushes was bizarre behavior? A. I don't know the circumstances and I wouldn't know where else she had to hide the child. If that was the only place, it certainly was not bizarre.

Q. You know what her fear was, don't you? A. Yes.

Q. There was an edict out to kill all Hebrew children.

A. That is right.

Q. Now, Doctor, you said on pages 3687 and 3688 of [3918] this trial that you had made certain observations, principally at the last trial and once at this trial, concerning Mr. Chambers when he was on the stand, and as I read those pages you say that he used the following three phrases a great many times: "must have been," "should have been" and "would have been."

Now, Doctor, I have made an analysis of all of the testimony that Mr. Chambers gave at the last trial and on the one day when you were present at this trial and I find that—I have the statistics right here—I find, Doctor, that those phrases that you have told us, "must have been," "should have been," "would have been," in 717 pages of testimony come to a total of ten, ten times.

Now my recollection is that Mr. Chambers answered very responsively, very quickly, without hesitation, and nevertheless you say that your observation on those days, you observed that he used these phrases repeatedly; and an actual count in 717 pages, Doctor, discloses ten times. For instance, he said, "My daughter was born 1933, so she must have been about a year old"—

MR. CROSS: Will you give us the page that you refer to?

MR. MURPHY: That is on page 155 of the first trial.

Q. —"no. I am wrong. She must have been about [3919] three years old."

On page 190, talking about the microfilms:

"No. They would have been the originals which Mr. Hiss brought out on the day when I met him for the purpose of transmission."

On page 173: "Q. Can you fix that time? A. That would have been, or that was, in January or February of 1937, I believe."

Page 282, in connection with slanting the news, the answer was: "I used the word 'slant', yes, but it would have been more proper to have used the word 'interpretation.'"

On page 367: "Q. All right. Do you remember the place where they were handed to you? A. Yes; it must have been Volta Place.

"Mr. Stryker: I move to strike it out.

"The Court: Don't tell us where it must have been. Tell us what your recollection is.

"A. No. Then I will have to answer no."

Page 441, Mr. Stryker was referring to the long absence of illness:

"Q. When did it begin in 1942, about? A. I am not sure. It seems to me it must have been in the spring; perhaps in March."

". . . . it must have been November, I believe."

[3920] That is on redirect examination, at 537.

He says on page 565a: "I must have been about 28, I think 27 or 28," referring to the age of Mr. Chambers at the time of his grandmother's death.

"I said they must have been," in answer to: "By the way, talking about the strips of film, Mr. Stryker said were they cut from a large strip, and I think you said 'Yes.'" Page 608.

569, the description of the 30th Street house, the question was: "And what period? A. That would have been in 1936 or 1937 I believe."

Page 584: "A. No, I think it must have been later, probably 1929."

Now, Doctor, do you say that a person who uses phrases similar to that gives evidence of a bizarre behavior?

A. I did not use that in connection with bizarre behavior at all. I used it in connection with the particular kind of memory that Mr. Chambers revealed.

Q. Ten times in 717 pages. Do you know how many times Mr. Hiss used similar phrases in 500 pages?

A. I haven't any idea; I didn't hear him testify.

Q. Well, I have some statistics on that and ask you—

MR. CROSS: Now, if your Honor please, I submit—I did not object to Mr. Murphy reciting what Mr. Chambers testified to at the first trial. This is not [3921] proper cross-examination, to have read into the record testimony at the earlier trial. It would simply mean prolonging the trial to count up various statements of witnesses. And there has been no evidence whatever with reference to Mr. Hiss, nor his testimony at the first trial, except as Mr. Murphy asked him when he was on the stand. So—

THE COURT: I think this is for the purpose of making comparisons between an alleged normal person and an alleged abnormal person. I think it is proper.

Q. So that there will be no confusion, I am talking about Mr. Hiss's testimony at this trial, and the Judge permitted you, Doctor, to testify as to your observations at the last trial. So I am now coming to whether you have any idea about the number of times that Mr. Hiss, in 500 and some-odd pages, used phrases similar to that. My computation, Doctor, is in 590 pages Mr. Hiss used a phrase like that or similar 158 times. Now, do you form any conclusions, Doctor, by the use of phrases?

A. No.

Q. None. Now, I think you described, Doctor, too, as an evidence of bizarre behavior the writing of the letter to Professor Van Doren back in 1923 or 1924. Did you, or am I wrong on that? A. I think you are wrong about that, sir.

[3922] Q. Wrong. In any event, it would not be

bizarre behavior? A. I don't know which letter you are talking about. The one you read yesterday?

Q. The one I read yesterday, the one he wrote to Professor Van Doren about having seen Dean Hawkes.

A. No.

Q. That is not bizarre behavior? A. I don't think so. I said something about his going to Columbia because of an unconventional partner. I didn't know the context of the letter then entirely.

Q. You did not know the context? A. No; it had never been read to me.

Q. Now that you know the context, you would not describe it as bizarre? A. No.

Q. You did describe as bizarre behavior the meeting of Mr. Wadleigh at Jackson Place back in 1939? Do you remember that part of the question, Doctor? A. Yes, that was described as a stone's throw from the State Department.

Q. Yes, it is the next street away. A. Yes.

Q. Did you in your diagnosis of that as bizarre behavior—did you realize that that was in 1939, a year after Mr. Chambers had broken with the Party and he was then not in the underground? A. I don't think I took that into consideration.

Q. If you assumed those to be the facts, Doctor, would [3923] you still describe that as bizarre? A. Not necessarily, no.

Q. Now, Doctor, you did describe as bizarre the action of Mr. Chambers when he went to the home of the Hisses in December of 1938. Do you remember the facts in your hypothetical question on that? A. When he so testified, yes.

Q. I think you assumed, Doctor, that he went there and he knew that the Hisses hadn't invited him, that is, he went there unannounced, and that he had a fear of ambush, and by ambush he meant that he might be destroyed or kidnapped; but nevertheless he visited and took dinner. I think that is what you described as bizarre behavior?

A. That is right.

Q. Well, Doctor, assuming that he had broken with

the Communist Party in April of that year and that he went—

A. April of what year?

Q. 1938. —he had broken with the Communist Party in April of 1938 and he went to the Hisses' home in Georgetown in December of that year for the purpose of trying to induce or convince the Hisses to leave the Party with him, and he had been in fear of Communist reprisals since he had broken. Would you say, Doctor, that that kind of fear was the fear of a normal person or a person with a psychopathic personality?

A. I think to stay to dinner with a man who you think [3924] is going to assassinate you is not usual behavior.

Q. Assuming, Doctor, if you will, what I had asked you to assume, which was, whether that kind of fear, the fear of assassination or ambush, after you had broken with the Party, the fear of reprisals, and you had gone to a friend, wouldn't you say, one, that that was rather courageous?

A. I have no comment to make on that. I don't know the practices of the Communist underground and no idea whether there was any reasonable basis for the fear or not.

Q. Well, Doctor, now— A. What did you want—

Q. —let me ask you whether or not you would think some of these people had reasonable ground for fear: you knew that General Krivitsky in 1941 died suddenly in a Washington hotel, did you not? A. Yes, I do.

Q. And you knew that he had formely been with the Russian Embassy? A. I believe so.

Q. Well, if that was one of the facts that a person knew, would you say that that was something that would have confirmed the fear? A. I should think so.

Q. Yes. Well, would you say, for instance, that this lady that jumped out of the Russian Consulate here last summer or summer before last, Mrs. Kasenkina—did she have a fear of—a psychopathic personality, or was that the normal fear that some person would have of reprisal?

[3925] A. Well, I don't know the facts of the case, but I will assume that she was threatened and therefore jumped.

Q. Well, Doctor, isn't it fair to assume that a person who has left the Communist Party after being a paid functionary for many years, would have a normal, healthy fear of reprisal? Isn't that a fair assumption, Doctor? A. Yes, that seems to me fair.

Q. So that when Mr. Chambers went to Mr. Hiss's house in December of 1938, wouldn't you say that it would be only natural for him to have fear of reprisals—the house might have been watched; wouldn't you say that is a normal, healthy fear, Doctor? A. I don't think it is normal to stay to dinner with a man whom you think is going to assassinate you.

Q. No. You have the fear of assassination, Doctor; that is all the testimony is, the fear. A. That is right.

Q. And then you find that the man is friendly and he is willing to argue with you. A. Yes.

Q. Don't you dispel that fear after a while, particularly when you are talking to a friend? A. It could be, yes.

Q. Yes. I can think of another person who had fear, a man named Trotsky. Do you remember the fear that he must have had? A. That is right.

[3926] Q. Now, Doctor, is a person who breaks with the Party and who goes into hiding, is that fact itself, that of just going into hiding after you have left the Party, is that evidence of a psychopathic personality? A. No, certainly not.

Q. I think what you thought was bizarre was that after he had gone to Florida he came to New York to see some publishers and also wrote some letters in his name of Chambers, bought a house in Baltimore in the name of Chambers. A. Well, he said he was in hiding and having a revolver or a gun at his side all the time, that he also appeared in public.

Q. Doctor, a person who is in hiding and wants to come out of hiding has to take the first step somewhere; so isn't there a distinction, Doctor, between being in hid-

ing and being vigilant, careful? A. Yes; he testified he was in hiding for a year I believe.

Q. Well, the testimony was, Doctor, I think, that he was in hiding at the Old Court Road, then he went to Florida with his wife, and he worked at night and his wife slept and she worked in the daytime and he slept, and they were constantly on guard; but when he came back to Baltimore and bought a house and came up to New York to get some translation work, he was not in hiding; he was vigilant then. Isn't that a distinction, Doctor? [3927] And could you call it a bizarre behavior by a person who wants to get back into the stream of life, who had been underground so long? Isn't that courageous more than bizarre? A. It seems to me a little inconsistent to sleep at night with a gun under your bed and then go to New York and use your own name, put your name in the telephone book all at the same time.

Q. It wasn't at the same time, Doctor, because the testimony is that he had the gun while in Florida.

MR. CROSS: If your Honor please, I object to Mr. Murphy keeping on stating what the evidence is. I don't mind his referring to the assumed facts that I put to Dr. Binger, which are quite different from what Mr. Murphy states the evidence to be. We disagree as to what the evidence is.

THE COURT: Mr. Cross, Mr. Murphy is within his rights in assuming certain facts in the question put to the witness.

MR. CROSS: I don't mind if he assumes it. What I object to is the statement as to what the evidence is, as to which I violently disagree.

THE COURT: Well, what the evidence is is of course for the jury to pass upon.

MR. CROSS: I realize that. I think it ought to be an assumption, if your Honor please. That is my [3928] objection. It ought to be in the form of an assumption.

MR. MURPHY: I will follow Mr. Cross's suggestion, if your Honor please.

Q. Assuming, Doctor, that the facts are that the actual hiding was for a short period of time in a little country road outside of Baltimore, and for another short period of time, I think a month, in Daytona Beach, Florida, and then there was a gradual lifting—a buying of a house in his name and him coming to New York to get work to live on, but at the same time vigilant. Would you say that those were bizarre actions of a person who had only recently broken with the Communist Party?

A. Do you want me to assume what you have just said to be true?

Q. If you will, Doctor. A. Then I do not think it is bizarre.

Q. Now, Doctor, you told us that when Mr. Chambers was about 17 or 18 years of age you assumed as part of the facts that you relied on, that when he was about 17 or 18 he left home, he ran away from home, and he worked in Washington for a street railway company and used the name Charles Adams, and you said that he was playing a game and you thought that that was evidence of pathological lying. Is that correct, Doctor? A. Well, I think taking on a role that you wish to assume is evidence of pathological lying.

Q. What facts, Doctor, in your hypothetical question did you rely upon from which you form the opinion that he was playing a game? What were the facts that you relied on? A. At this point I may be confusing the previous hypothetical question with this one. But I think it was the fact that he took the name Charles Adams because he was an admirer of John Adams and Charles was the son of John.

Q. Yes. Assuming those are the facts—he was asked, "Why did you take the name of Adams?" and he said he had an admiration for John Adams and John Quincy Adams. A. Yes.

Q. Charles was the name of his grandfather.

A. Grandfather.

Q. What facts did you rely upon from which you drew the conclusion that he was playing a game? A.

Just the fact that he would at random pick a name that suited his fancy.

Q. Well, did you say as a doctor then that you came to the conclusion that he was playing a game because he used a fictitious name? A. A name of his own choice that suited his particular fancy, yes.

Q. Yes. But did you come to the conclusion that he was playing a game when he did that, Doctor? That is what I am trying to get. A. Acting out a fantasy, yes.

[3930] Q. You have used the word "fantasy" a couple of times. What facts in evidence are there that you have relied upon from which you can say as a doctor that Mr. Chambers had fantasies? What facts in the hypothetical question or in your observation of him do you rely upon as a doctor to prove or to say, for that matter, that Mr. Chambers had fantasies? A. Well, I think you must misunderstand me when I use that word "fantasy." Everybody has fantasies. Every human being has imaginations. And when a man selects a name because it suits a certain role, I call that a fantasy. You may call it imagination.

Q. Well, the— A. I don't use that in any invidious sense. The word "fantasy"—

Q. Whether you use it in any invidious sense or not, I say that you don't use it in any medical sense? A. I do, strictly medical, yes.

Q. You do? A. Yes.

Q. Can you, from the observations that you have made, tell what fantasies a person has? A. From the observations I have made on whom?

Q. Mr. Chambers. You observed him in court five or six times, seven times, and you have assumed a state of facts based upon what Mr. Cross says is in evidence. Now is that the only thing that you rely upon to tell us what fantasies Mr. Chambers has? A. No, the best method [3931] to approach that is his own imaginative writings.

Q. His own imaginative writings? A. Yes.

Q. In other words, you can look into the writings of

an author and pick out what you describe, as a doctor, as fantasies, is that correct? A. I think so, yes.

Q. Fantasies are the workings of the mind, are they not, Doctor? A. Yes, imaginative workings.

Q. Imaginative workings. You can't see them?

A. That is right.

Q. And you have told us that when he was playing a game when he was 17 or 18 years of age, that was a fantasy of his? A. That is an assumption on my part, that he picked the name because he says he picked it in order to live out an imagination of his own, that he was not satisfied with his own name and he picked a good one.

Q. Doctor, what I am trying to get at is this, that there are no facts in evidence upon which you as a doctor can rely as proof of fantasies; is that correct? A. I don't think so.

Q. Well, what are the facts from which you tell this Court and jury that Mr. Chambers had fantasies? A. Are you talking now about this particular instance in which he changed his name?

Q. Any at all, sir. A. Because I know that all human beings have fantasies. You and I and everybody have [3932] imaginations. Certainly every writer of fiction must have because that is what he draws on.

Q. Well, then, does it come down to this, Doctor, that he used the name Charles Adams because he had imagination? A. Because it suited his imagination, yes, because he wanted to change his name and he picked one that he liked with a good inheritance.

Q. All it showed was that he was using his imagination?

A. That is right.

Q. Other people use their names because their parents gave them to them? A. Usually.

Q. Yes. Do you say that he was playing a game that —was he playing any particular part in the life of John Adams or John Quincy Adams? A. I don't know about that. I have no evidence for that.

Q. No evidence? A. No.

Q. When you say "game," maybe if you define what you mean by he was playing a game, maybe we can go on to something else. What did you mean when you said he was playing a game with that name? A. Well, I meant—

Q. Merely that it was his own imagination and he picked that name? A. Because of the particular background for Charles Adams, because he liked the name, he liked the inheritance; he didn't like his own, he wanted to change his name, and he picked one that suited his own imagination. [3933] That is all I meant by it.

Q. That is all you meant? A. Correct.

Q. There is no other meaning? A. That is right.

Q. Do you say that a boy who runs away from home and who uses a fictitious name gives evidence of psychopathic lying? A. Frequently.

Q. Well, Doctor, have you ever used a fictitious name?

A. No.

Q. Never registered in a hotel with a fictitious name?

A. Certainly not.

Q. Well, people who do, are they giving evidence of psychopathic lying? A. I don't know. I can't testify about people whom I don't know.

Q. Well, Doctor, supposing Mr. Chambers' purpose in running away from home and using a fictitious name was to prevent his parents from finding him? Would that still classify it as a symptom of pathological lying? A. I think so, yes.

Q. Well, would a boy who runs away from home and uses a fictitious name always be considered a pathological liar?

A. No one episode determines anything in this case.

Q. Or in any case? A. No, not one episode.

Q. Now, did you also attribute to Mr. Chambers the attribute of pathological lying when he used the name Charles Whittaker in his father's office? A. I included [3934] that in the succession of lies.

Q. But not as a pathological liar? A. Not strictly, no.

Q. Would you tell us again what a pathological lie is, Doctor? A. Well, the closest I can come to it is a lie which expresses some wish, fantasy, imagination, for the person who tells it, who then in a sense believes it and in a sense doesn't, and who acts—

Q. I am sorry? A. —and acts as if it were true.

Q. So that you would have to know what the wish was, I suppose? A. Well, it is almost impossible to know those things.

Q. Well then, it must be almost impossible to know when a person is lying pathologically? A. No, in this particular instance of the Charles Adams we know that his wish was to take on the name of Charles Adams.

Q. But you told us, Doctor, that it was merely because he had—that was his own imagination, to take that time?

A. That is right.

Q. And no more significance than that? A. Except that he behaved as if his imagination were true.

Q. How about the thousands of boys who call themselves Joe DiMaggio? What about those boys who do that?

A. I haven't examined those boys.

Q. You wouldn't call them psychopathic liars, would you?

[3935] A. Not from that alone.

Q. Well, when he used the name Charles Whittaker in his father's shop, you included that only as a lie and not as evidence of pathological lying? A. That is right.

Q. Now, do you attach any significance at all, Doctor, to people who use assumed names? A. I don't understand your question exactly.

Q. Let us suppose that a number of people use names that are not their own. Do you as a doctor attach any importance to it as a medical fact? A. I can't generalize about situations that I don't know the details about. If you give me some instances I will try to answer you honestly.

Q. Well, take the man who wrote "Alice In Wonderland." His name, according to the book, was Louis Carroll.

That was a fictitious name, wasn't it, Doctor? A. I believe so. I don't remember what his right name was.

Q. Would you say that there would be any medical significance to that fact? A. I haven't the faintest idea.

Q. Or O. Henry? That was not his name, was it?

A. Those names were not assumed with the purpose of deceiving people. They are not lies in that sense, they are conventions.

Q. Why, Doctor, you don't know what the purpose of Mr. Porter was in using the name O. Henry, do you? A. I have [3936] always assumed that it was not for the purpose of deceiving.

Q. In other words, you don't know what the purpose was. How about Mark Twain? Do you know what his name was? A. Yes, I do.

Q. Well, did Mr. Clemens have any reason to deceive or do you know what his purpose was at all? A. No. I would be interested to know.

Q. Well, would that help you, Doctor, if you knew what the purpose was in using a name? Would that help you as a doctor to form an opinion? A. Well, it might, it might not.

Q. Well, then, Mr. Chambers' purpose in using the assumed names that he did use would have a medical significance? A. Certainly.

Q. Well, if he used many assumed names as a Communist paid functionary of that Party, would you say that you would attach any medical significance to that? A. Certainly. Especially if it is consistent with his behavior before and after being a Communist. If it were an isolated fact, less so.

Q. You established some connection between the fact that he used assumed names while he was a member of the Party and once when he was a boy ran away from home and he used an assumed name, and once when he worked with his father shortly thereafter; that establishes the pattern, [3937] is that correct? A. And after his being a Communist. That establishes a certain consistency of behavior.

Q. What names did you rely upon, Doctor, that he used after he was a Communist? A. Well, there is a great variety of them around the general name Jay Whittaker Chambers, Jay David Chambers, Whittaker Chambers, and others. I can't remember all the permutations and combinations. They are all in the record.

Q. You don't seriously attach any significance to those variations of name, do you? A. I certainly do.

Q. The Jay David Whittaker Chambers, and Whittaker Chambers? A. Certainly.

THE COURT: We will adjourn now until a quarter after two.

(Recess to 2:15 p.m.)

[3938] Afternoon Session

CARL A. L. BINGER, resumed the stand.

Cross Examination Continued by Mr. Murphy:

Q. Doctor, just a few questions on the use of names: When the late President of the United States, Calvin Coolidge, used that name and not his given name of John Calvin Coolidge, that did not signify anything particularly, did it, Doctor? A. Did he do that with a purpose of deceiving anyone?

Q. I don't know, Doctor. I was wondering whether you had any medical diagnosis of that fact. A. I never knew his name was John.

Q. The Senior Circuit Judge in this circuit was born Billings Learned Hand, and he calls himself Learned Hand. Does that mean anything to you, Doctor, as a doctor? A. Yes, I know Learned Hand and I don't think he would ever deceive anybody.

Q. Well, the use of the "Learned" instead of the "Billings," that has no medical significance to you, does it? A. None.

Q. Or would you say that the senior Rockefeller when be gave away those dimes, was that any significant fact at all, medically speaking? A. I don't know.

Q. Doctor, when you described Mr. Chambers as having some sort of emotional—I think you said [3939] abnormal emotionality after the death of his brother—do you remember that? A. Oh yes, I remember that very well.

Q. I think you said, Doctor, that based upon the facts that were given to you in the hypothetical question that Mr. Chambers' actions thereafter manifested to you, as a doctor, an abnormal emotionality; is that correct?

A. That is correct.

Q. And I take it, Doctor, that that opinion was based, at least in part, on the assumed fact that he was unable to move; that he was almost paralyzed.

A. In part.

Q. Doctor, would your opinion be the same if you would assume that what he meant by being almost paralyzed was merely that he was spiritually upset by the loss of his brother and it did not necessarily mean that he could physically move; in fact, he did physically move—would that alter your opinion any?

A. He didn't say that.

Q. Well, let us see what he said now and then I will ask you to assume that what he said was true. Page 710. This was on redirect examination when I had Mr. Chambers the second time, and I said:

[3940] "Q. Now after your brother's death you testified you were immobilized. Does that mean you physically could not move, or mentally? A. I could move, of course, and did move.

"Q. And there was nothing wrong with your movement about, as such? A. No. I could move about.

"Q. No impairment of your physical ability to walk? A. No.

"Q. Or move your arms or legs? A. No.

"Q. You meant that you were emotionally upset? A. I meant a kind of spiritual exhaustion.

"Q. Like some people suffer when they lose a close relative? A. That is right."

Assuming that those facts were true, that he could, in fact, move about, both his arms and his legs, and that he

felt spiritually exhausted as anybody would who would suffer the loss of a close friend—assuming those facts, Doctor, would you say that he then manifested abnormal emotionality?

A. I took his statement about the way he felt after his brother's death and associated it with the poem that he wrote memorializing his brother's death the burden of which is motionlessness, a desire to die, a desire to join his brother in the perfection of death, and his own description of his feelings as amplified by the poem, [3941] I gave an example of abnormal emotionality, and I still do.

Q. Doctor, I ask you whether, assuming what I just read to be the truth, do you still feel that that action represents to a trained doctor the abnormal emotionality which is sometimes a symptom of a psychopathic personality? A. If you are asking me to assume part of the facts I can't draw any conclusion.

Q. Well, Doctor, assume that he lost a brother who was one or two years younger than he; assuming that he had successfully prevented his brother from committing suicide on two occasions heretofore; the third time he did not; and that he felt, as I have read the testimony, and that at some time—the exact time is not in evidence—he wrote a poem memorializing his brother's death. Assuming those facts, Doctor, would you say that they all add up to an abnormal emotionality?

A. They are indicative of that.

Q. Would you want to describe to the jury how a normal person would react to the loss of a younger brother by suicide? A. With grief.

Q. And if he wrote a poem memorializing the death, would that change it to an abnormal emotionality?

A. If he said that he was waiting for the perfection of death himself to join his brother in death, I would say so.

[3942] Q. In other words, if he used that phrase in the poem that he was waiting some day to die himself and join his brother who had predeceased him, that that would, to your trained mind, show an abnormal emotionality?

A. Plus the way he described himself as being unable to move, plus the context of the poem which has all to do with motionlessness and motion, and then the final solution being reunion in death as if he were contemplating joining his brother in the suicide pact—

Q. Now, does the poem indicate to you at all that he contemplated suicide himself?

A. Not at the time, no.

Q. Well, at any time?

MR. MURPHY: May I have the poem, please?

(Poem handed to Mr. Murphy.)

[3943] Q. This is a poem, according to the exhibit, published in "Poetry" in 1931, and it is dated—and the name of the poem is "October 21, 1926," so that would be published five years after his brother died. It says:

"The moving masses of clouds, and the standing
Freights on the siding of the sun, alike induce in us
That despair which we, brother, know there is no withstanding.
Nothing but the moving masses of clouds has any meaning
For this tortured world now; or only motionlessness as of the cars,
In beings of substance, remains undemeaning.
Only the momentum of the motion of the masses,
Being or substance, has any meaning—or their cessation
Upon the perfect turn of the experience motion amasses.
We see all about us how, in creation,
Flowers from the dark gathering in their roots, with one motion,
Thrust themselves perfect, Oh God, perfect, from increation.
And you know, brother, it is the same with cessation;
You know how perfect must be the ways of anything
Designing its return to cessation
[3943a] You know it is the cessation of the motion in me I am waiting;
And not lack of love, or love of the sun's generation, and the motion

Of bodies, or their stasis, that keeps me—but my perfection for death I am waiting.''

[3944] There is nothing in that poem indicating that he was going to take his own life, is there, Doctor?

A. No.

Q. He was waiting for death? A. That is right.

Q. Like most of us? A. Yes. He said not long ago that he reluctantly and gradually was destroying himself.

Q. Yes. But I was asking you what there was about the death of his brother, the writing of that poem six years later, five years later— A. We don't know when the poem was written, do we?

Q. No, we don't. So you will have to assume, Doctor, the writing of a poem which was published in a paper called ''Poetry'' February '31, entitled ''October 21, 1926,'' and assuming further the facts that I read you to be true, do you say that as a trained doctor they signify to you abnormal emotionality? A. You have left out some important assumption.

Q. Well, Doctor, using just the assumptions that I gave you, now tell us what your opinion would be, as a trained psychiatrist. A. I would say there was a suspicion of it.

Q. A suspicion? A. That is right.

Q. And what is there in the facts that I have asked you to assume that causes you as a doctor to say that there is a suspicion of abnormal emotionality? A. The nature of [3945] his reaction.

Q. What is there in the nature of his reaction which is different than the reaction of a normal healthy person?

A. That kind of reaction, that kind of benumbing, that kind of withdrawal usually is compounded of a mixture of grief and guilt and hate. And Mr. Chambers has testified that he was not close to his brother until after his death, when he realized he loved him. There is a great deal of—

Q. I want you to take the facts that I assume, please, in which you said there was a suspicion of abnormal emotionality, and the facts that I asked you to assume

were that Mr. Chambers lost his brother, who was two years younger than he was, when they were in their twenties, that his brother committed death by suicide—died by suicide, although Mr. Chambers had on two occasions successfully prevented that before.

A. And that he asked Mr. Chambers to join him in suicide.

Q. Yes, the dead man asked him to join but Mr. Chambers refused. A. That is right.

Q. Yes. And that he prevented him on two occasions. I am asking you to assume these facts, Doctor; his brother died, and that he wrote a poem—we don't know when, but it was published five years after his death—

[3946] MR. CROSS: There is the date of it. It was given on page 404.

Q. Mr. Chambers says he presumes "October 21, 1926" is the day that he wrote it. It was published five years later. And assuming he told this Court and jury that he was not benumbed in any physical sense, that he was not immobilized, he could walk and move around freely, and what he was was spiritually exhausted, like any person who lost a close relative. What is there, Doctor, in those assumed facts that causes you to feel that they manifest a suspicion of abnormal emotionality?

A. In the character of his symptoms, in the symbolism of the poetry, and in his behavior after that.

Q. Now, Doctor, please. Would you stick to my question? What is there in those facts that I have asked you to assume that you can put your finger on and explain to this jury as being suspicious of abnormal emotionality? A. I have just said, the character of his reaction.

Q. Well, tell us what those were in the facts that I gave you. A. In his figurative way of saying that he was unable to move, as if he himself were dead.

Q. Now, where does it say that in the facts that I gave you? A. You are giving me some bald facts; I have to interpret them with what knowledge I have.

[3947] Q. Well, Doctor, would you try to just use the facts that I gave you and form an opinion? A. You are asking me to draw my conclusions from these facts.

Q. That is right. Your conclusion is that it was a suspicion? A. That means that I have to make certain inferences from the facts.

Q. Well, tell us what facts you use and then tell us what the inference is from those facts. A. The facts are that he said he was unable to move, by which I am perfectly willing to agree that he was speaking figuratively; that he felt as if he were unable to move, that he felt lifeless, that he had lost interest, that he was dispirited; he then wrote a poem about the emotion, about his—about the motionlessness of the universe, and about waiting for the perfection of death. Then, in addition to that, he said after that he became a fanatical Communist, having been a Communist.

Q. Now, Doctor, I didn't mention fanatical Communist. I only asked you to use the facts that I gave you.

A. All right. I am sorry I mentioned that. That was in my mind. I can't always divorce things that are in my mind. I am not trained to do that. I am trained to include them, not to exclude them.

Q. Well, can't you tell us, Doctor, which of those facts you have just enumerated you rely upon to point out [3948] to the jury that they are suspicious of abnormal emotionality? A. The quality of his own description of his grief reaction, and the poem, because we know from psychiatric studies, and there is a great deal of literature on this, that that particular kind of reaction is always compounded of love, plus a great deal of hatred and animosity. And that is responsible for the feeling of extreme depression, which is then described as motionlessness. I can refer you to a good deal of literature on that subject.

Q. Well, supposing by the term "motionlessness" he meant that he was spiritually exhausted. Do people who are normal become spiritually exhausted on the loss of a close relative? A. Yes.

Q. And that would be a natural function, would it not?

A. Depending upon the duration. If it lasted for too long then it ceases to be—

Q. Tell us what you believe to be the natural and

normal duration of a grief like that would be. What would be natural? A. Well, it depends upon the nature of the relationship and the feeling, the reason—

Q. And the relationship of the—and the personality of the person? A. That is right.

Q. There is no way that doctors have of telling whether it is too long or too short, is there? A. Yes. If a person [3949] were in a state of abject grief for a matter of years and couldn't recover, that in itself would have some significance.

Q. Well, let us suppose he was spiritually exhausted for a while, just using those words. Is that normal?

A. It could be.

Q. Not only could be, Doctor, it is, isn't it? Isn't it normal for a person— A. Certainly it is normal to feel grief.

Q. Yes. And the duration of the grief depends upon the relationship with the departed and the make-up of the particular person who feels the grief? A. Yes, but it is—the element of animosity in the relationship is as important in the symptom as the element of love.

Q. Excuse me. In any of the assumed facts that you have was there any fact upon which you base animosity of Mr. Chambers for his brother? Is there any animus in the facts that you were asked? A. Simply the statement that he did not realize he loved him until he was dead.

Q. And you wouldn't call that animus, would you?

A. I would conclude from that that there wasn't a great feeling of kinship or closeness while he was living.

Q. Yes. But that is not animosity, is it?

A. It could be.

Q. But it is generally considered—merely just no [3950] consideration given to it at all? Animus, that is the feeling; and he had no feeling towards his brother you said; he didn't realize it until his brother died?

A. It is impossible not to have feelings toward a brother.

Q. Are you saying that now as also expressing some

medical fact? A. Certainly. A very important medical fact.

Q. Let us suppose that you were separated from your brother at childhood and never saw him again the rest of your life, didn't know he existed. What would you say, medically speaking, of that brother who didn't even think of his other brother? A. If he didn't know he existed, I assume he wouldn't have any feeling.

Q. Well, assuming that he remembered a boy around the house years and years ago but hadn't seen or heard of him or knew him well at all, gave him no thought, what would you say that exhibited, Doctor? A. Was that true of Mr. Chambers and his brother?

[3951] Q. Did you hear the question, Doctor?

A. I did. It is hard for me to answer questions—

Q. Yes, but you were telling us generally what people feel, Doctor, and I was trying to press you to see whether you were telling us something just as an armchair opinion or a medical fact.

A. But I was speaking from whatever psychiatric knowledge I have when I said that it is impossible not to have feelings about a brother. Now, if you say if you didn't know your brother exists, then I would have to modify my statement. But presumably two brothers who grew up together and were approximately an age and went to school together, it is quite impossible for one not to have some feeling toward the other.

Q. But you don't necessarily have to have a feeling of love, do you, until after the brother is dead?

A. No.

Q. Doesn't that happen often, that you realize you have lost a friend and you only realize it after the friend is dead? A. That is right.

Q. And that is a natural feeling? A. Yes. I don't say there is anything unnatural about that.

Q. You sort of saw a symbolism, too, I think, in the fact that Mr. Chambers went underground, and I think the symbolism that you said you saw was that that was [3952] a symbol of the brother's burial—he went underground—and it sort of symbolized in his mind the brother's burial?

A. That is not what I meant.

Q. Well, will you tell us what you said or what you meant? A. I will tell you what I meant. Taking into consideration this particular kind of reaction after his brother's death, taking into consideration the poem in which motionlessness and death and reunion are implied, he then became a fanatical Communist—Chambers—and went underground. I said, to your amusement, because I saw you smile when I said it, that was a kind of symbolic burial of himself; the brother was dead and he buried himself in the Communist underground. That is exactly what I said and meant.

Q. And did you say you said it because you wanted to amuse me? Is that what you said?

A. Oh no. I said you seemed to be amused that I made that remark. I was not trying to amuse you. I am not here for that.

Q. Well, Doctor, don't you assume in your state of facts that the brother was buried underground?

A. I don't know where the brother was buried.

Q. Why of course. Suppose the brother was cremated? What would be the symbolical symbol there?

A. I don't think it is quite—I don't think that is [3953] quite as literal as that, Mr. Murphy. We speak of burying in the Communist underground, going underground. Usually after a person dies there is the thought of burial. Now, whether the brother was cremated or whether his ashes were scattered on the four winds has nothing to do with my assumption. It was an assumption, I still make it, and it can be given whatever importance you wish to give it.

Q. Well, Doctor, let us suppose that you assumed that he did not go underground as a Communist functionary until three years I think it was, some five years later?

A. Yes, I know there was an interval. He did say however that he became a fanatical Communist after his brother's death.

Q. But tell us about the symbolism of going underground five years later pursuant to orders from his superior—do you attach some significance to that in connec-

tion with the proposed death with that intervening time there and pursuant to orders? A. I think the Unconscious recognizes no statute of limitations. I think this is a continuous process that goes on in the mind, and whether it is one year or five years or ten years has nothing to do with it.

Q. Doctor, if he did it pursuant to orders, pursuant to the orders of his superior and went underground—

[3954] A. He accepted those orders, didn't he?

Q. Yes, assuming he did it pursuant to orders, do you still attach this symbolism to it and tie it in in some way with the proposed death?

A. I am not trying to lay too much emphasis on it. I think it is a significant fact worth bearing in mind.

Q. Now, Doctor, did you say on your direct examination, particularly when you were talking, I think, about the article in Life called "The Devil," that you could from reading a story by an author extract from that story certain traits of the author; that a story portrays the traits— did you say that? A. No.

Q. Or did you mean that? A. No.

Q. Did you say in words or in substance that in reading the article "The Devil" that Mr. Chambers wrote in Life Magazine, I think in 1948, that you could read that article and gather from it some significant facts with regard to his personality make-up?

A. Do you want me to tell you what I believe?

Q. No, if you will tell me what you said it will be all right. What did you say you could, as a doctor, gather from the work of an author?

A. That it was additional evidence of a personality trait if taken into consideration with his behavior and with the other things that he wrote. Isolated it [3955] might mean nothing, or much less.

Q. I am sorry? A. It might mean nothing or much less if you took it as an isolated exhibit.

Q. But you were able, you say, to pick something out of the article called "The Devil"—is that a fact?

A. Something that I thought was significant, yes, sir.

Q. And you attributed that to the author?

A. The author wrote it, didn't he?

Q. Yes, but you attributed it to the author as something portraying himself; isn't that what you said?

A. I don't know as I said it. I believe that now.

Q. If you didn't say it that is what you meant, in any event, or you are now saying? A. That is right.

Q. Now, what else except from what you said did you gather from the article "The Devil" about Mr. Chambers?

A. I think I said all that I had in mind.

MR. MURPHY: Well, your Honor, the jury has not heard that article; it is in evidence; and I am going to ask Mr. Ryan to read it, and then ask the Doctor to tell us again what he got out of it.

Will you, Mr. Ryan?

THE COURT: Mr. Murphy, I think the Doctor pointed out the portion of it that caused him to take that view. Perhaps it will save reading. It is rather long, isn't it?

MR. MURPHY: It is not too long, Judge. It is [3956] in evidence, and the jury has not had the privilege of reading it, and it might be that the Doctor took part of it out of context, and I think perhaps the whole thing should be read.

(Mr. Ryan reads Defendant's Exhibit U to the jury.)

BY MR. MURPHY:

Q. Now, Doctor, do you say that that article is the work of a man who is psychopathic? A. I think it is a brilliant article. I could never say from one piece of work that it was the work of a man who was psychopathic.

Q. Would you say that a person who had a psychopathic personality could write such a brilliant article as that? A. Certainly. It has nothing to do whatever with his billiance.

Q. Do you say that you can pick out of context there some line or paragraph and say it portrays a particular trait of the author? A. I could only say that some of it sounds autobiographical, knowing the other facts of his life, especially his whole analogy between the devil

and the underground in the Communist movement, which is very apparent, explicitly said.

Q. In other words, Doctor, you don't believe that the whole thing was an allegory; that he was telling the people, the devil was, that he was underground for many years, and people do not now believe that he exists, and that is why he was so successful? Don't you [3957] believe that he was actually speaking for the devil? A. He was saying that, and he was saying a good deal more besides, it is quite apparent. He was also talking about himself. One of the significant things about this story is that it is so close to the "Screw Tape Letters," and the pathos of this brilliant man, Chambers, is that in spite of his extraordinary creative ability he has created so pathetically little in his life in the way of literary productions except hack work and translations and a few poems.

Q. Now, Doctor, just let us see now: are you testifying now as a doctor or as a literary expert? You are not telling this Court and jury, are you, Doctor, as a qualified doctor that Mr. Chambers' work is hack work? Are you seriously telling us that?

A. I am trying to testify to the facts of this article.

Q. Yes, from a medical viewpoint. A. I am trying to point out, because you asked me to, whether there were analogies between what he says here and his personal autobiography, from a medical point of view. I can't help drawing in some literary allusions as well.

Q. Are you able to do that with other authors too? A. Not unless I know a good deal more about them than [3958] simply what they have written.

Q. In other words, the knowledge that you have here by virtue of the hypothetical question and the observations that you have made because you have been in court about seven or eight times gives you sufficient information so as you can analyze this beautiful story and tell us that it is partly autobiographical; is that right, Doctor? A. I would assume that to be true. I can't swear that it is true. That is my impression.

Q. Your impression? A. Yes.

Q. And that impression is based exclusively on the observations that you have made and the hypothetical question and the articles you have read, is that correct, and nothing else? A. That is right.

Q. You could not tell anything about other authors? For instance, if I asked you which character in the play "The Man Who Came to Dinner" Mr. Kaufman or Mr. Hart was portraying, could you? A. No. I know nothing about either of those gentlemen.

Q. Or the book that Lillian Smith wrote, "Strange Fruit," what character was she portraying in that?

A. I don't know that she was portraying any.

Q. Now, you said that you read a translation of Mr. Chambers called "Class Reunion" by Franz Werfel.

A. That is right.

[3959] Q. Now, Franz Werfel was the author of the "Song of Bernadette" and the "Forty Days of Musa Dagh"?

A. I have never read either of those.

Q. Well, he is a pretty well recognized German author. A. Oh yes—Austrian, isn't he?

Q. Austrian, yes. A. Yes.

Q. And do you attribute to Mr. Chambers as a translator some of the characters that the author portrayed in the writing? Did you say that he absorbed it because he translated it? A. I don't understand what you mean by the word "attribute."

Q. Well, you said that you arrived at some medical significance from the story "Class Reunion" which Mr. Chambers didn't write but which he translated from the German? A. That is right.

Q. And I was saying whether you made a distinction in your mind between the actual authorship and the translating? A. Some.

Q. Well, what was there about the character or any of the characters in "Class Reunion" that you say is attributable to Mr. Chambers, although he did not write the story? A. Your word "attributable" does not convey to me what I have in mind, so that I can't talk about the point of attributable.

Q. Well, supposing you tell us what your medical [3960] impressions were, in so far as they relate to Mr. Chambers, after you read his translation of the German work "Class Reunion"? A. I am impressed with some extraordinary analogies between the books—between the book and the facts which I have been asked to assume in the hypothetical question. Regardless of who wrote it, that is the statement that I would like to make.

Q. Regardless of who wrote it? A. Yes. And we can discuss what we mean perhaps later, if you want to.

Q. I am a little bit confused, Doctor, as to the impressions that you get from a work of an author by reason of his translating. That is what confuses me.

A. I simply said, and I will stick to this, that I was impressed with the extraordinary analogies between the story, the "Class Reunion", and the facts which were presented to me as true in the hypothetical question. And what that means beyond that I think is another problem. Obviously if that is not true, then there is no truth beyond that. But if that is true, then I think perhaps we could explore it.

Q. What was there in the hypothetical question that related in any wise to the book "Class Reunion" or to any of the characters in the— A. A good many things. Do you want me to enumerate them?

Q. Yes, if you will. A. There are two characters, [3961] principal characters in the book. One is Sebastian and the other is Adler. The name Adler is very close to the name Alger, and the name Adler—

Q. Let's see. Because it starts with A?

A. Because it has the same sound. Do you deny that it is close to the same sound?

Q. I do all the questioning, Doctor. A. Okay, I am sorry. May I go on with the description?

Q. If you will. A. Adler is described in the book as a man of great sincerity and sweetness, the closest friend of the other character Sebastian, later became the enemy whom he is trying to destroy. Adler is described as—

Q. Now, let's see. The book is about boys going to school, is that right, principally—the throwbacks?

A. The book is an adult describing his experience 25 years before.

Q. Yes. He went through school, he became a magistrate in some German city? A. That is right.

Q. And one day somebody is brought before him as an arrested person? A. Yes.

Q. And he thinks perhaps it is one of his old classmates? A. That is right.

Q. And then he goes back and describes the various classes and different class problems— A. He is describing [3961] how he himself committed a forgery and he signed a paper that the other man had done the thing and not he. How he had proposed a suicide pact with him by the use of illuminating gas, which is, as you recall, the way Mr. Chambers' brother committed suicide.

Q. There was a pact. In other words, two people agreed on something. Because you don't have that in the assumed facts here. A. Yes, but—

Q. And in the assumed facts you were told that the brother suggested— A. That is right.

Q. —the pact? A. In this case Sebastian suggested it.

Q. Yes, but they agreed? A. They agreed.

Q. But there is no agreement in our case? A. That is right; and Sebastian ducked out and let the other man almost die.

Q. Yes, but they agreed, to start with? A. That is right.

Q. And we have nothing like that here at all?

A. Well, all we know is that the brother suggested the pact. Adler is described as having gray eyes, as having a ludicrous walk when seen from behind.

Q. What color are Mr. Chambers' eyes, Doctor?

A. I don't know what—Mr. Chambers' eyes? I haven't any idea.

Q. You were observing him all these many days and you [3963] don't know? A. I couldn't see the color of the eyes from back there.

Q. You couldn't see his eyes? A. I couldn't see the color of his eyes from where Mr. Cross is now sitting because I am a little nearsighted. And I am pointing out the analogies. Mr. Chambers says that Mr. Hiss's eyes were gray. Mr. Sebastian says that Adler, when seen from behind, had a ludicrous walk. Mr. Chambers says of Mr. Hiss that he has a mincing gait when seen from behind.

Adler's father is said to have committed suicide when he was a small child. That is, Hiss's father committed suicide when he was a small child. Adler's mother was said to be a domineering woman; that Hiss's mother was described in some such terms, not exactly those terms.

Mr. Sebastian at the age of 43 describes himself as too fat, as smoking too much, as drinking too much coffee, as working too hard, as fearing a heart attack. He says that his father died of a heart attack.

And whether I am allowed to tell this or not, I have seen the medical record of Mr. Chambers with the same facts in it, and I can't dismiss that from my mind because it is in my mind.

The crime which was actually committed in the [3964] book is one of a falsification of documents by a man who says of himself, "I would lie. I would—I have no conscience. I would stop at nothing to gain my end."

The crime was then pinned on to the character Adler, and Sebastian signed a document saying, "I did not do this, I didn't falsify the records, I wasn't the forger; Adler was." And then to get out of the mess there is this suicide pact in which Sebastian ducks out, leaving Adler almost to die.

He comes back 25 years later, and is seen by Sebastian.

Now, there is one important thing I have left out and that somehow ties up with "the Devil," because according to Sebastian's own statement he was—he had not a creative gift which Adler had; he plagiarized a poem and was admitted into the inner circle of the intelligentsia at school. And Adler, the character in the book, made fun of him, and because he said something slighting to him, at that moment he sealed his own doom and then started

a process in Sebastian which was not completed until he came very near destroying this other man.

Those are the analogies which might be pointed out in a book that Mr. Chambers did not write but translated, a book by Franz Werfel.

[3965] Q. In what year, Doctor? A. It was written in 1928, translated in 1929, when Mr. Chambers was temporarily out of the Party, shortly after his father had died. And I might also point out—

Q. Shortly after who died? A. Chambers' father. I may also point out that there are some real inaccuracies in the translation—

Q. Now, are you qualifying yourself as a translator, too? A. I am qualifying myself as somebody who can read German and compare the English text and the German text.

Q. Now if you want to qualify yourself as a translator, what books have you translated, and then perhaps we can go into that? A. I don't want to qualify myself as—

Q. Then you don't attempt to criticize the translation of Mr. Chambers, do you? A. I am attempting to state some facts that I know to be true.

Q. Yes. But you haven't qualified yourself as a translator? A. Certainly not.

Q. Mr. Chambers translated how many books, to your knowledge, from German and French? A. Oh, I am sure a half a dozen. But if he translates, for example, the year 1868 as 1878, I don't have to be a qualified translator to find that error.

Q. And you are telling this jury that that was one of the errors in the translation? A. There are several [3966] inaccuracies, some more important.

Q. Perhaps it might have been the publisher?

A. It could have been.

Q. Yes. But you divide the blame? A. I am not blaming. I am stating that there are inaccuracies.

Q. You don't know whether Mr. Chambers made the mistake in translating or whether some linotyper made the

mistake, do you? A. No. I just said there were some inaccuracies.

Q. No. You said there was an inaccuracy in the translation. A. That is right. You are right.

Q. Yes. A. I beg your pardon.

Q. But we are agreed, Doctor, are we not, that Mr. Franz Werfel wrote the book? A. Of course.

Q. Yes. And it was translated by Mr. Chambers in 1929? A. That is right.

Q. Now, did you draw any analogies from the translation of the book "Bambi"? A. No.

Q. Well, did you read it? A. I read it long ago; not in connection with this.

Q. Well, weren't you told that that was one of the books Mr. Chambers translated? A. Yes; I have other things to do. I didn't read everything that Mr. Chambers wrote.

Q. You didn't read everything he wrote? A. Not [3967] everything, no.

Q. Did you make a selective picking of the things that he wrote and translated when you formed your opinion?

A. I was given a great many. I browsed through some of them. "Bambi" I had read long ago and did not read it again.

Q. Did you read the article in Time on Pope Pius XII?

A. On what?

Q. Pope Pius XII. A. No.

Q. Did you read the article in Life about the history of civilization by Toynbee? A. I read that.

Q. Did you extract anything from that? A. No.

Q. Nothing at all? A. No.

Q. Do you think it was brilliant? A. Yes.

Q. Did you read the article in Time on the singer Miss Anderson? A. No, I did not read that.

Q. Tell us what you read. That might help us form an opinion, Doctor. A. I think I did that the other day.

Q. You don't mind telling it again? A. No. The poem about his brother's death, Tandaradei, Poems in the

Nation; this book we have just discussed. Scorpion. City Zoo. Play for Puppets. Damn Fool. Some of these things like Bambi that I have read long ago.

Q. Did you read the one on Professor Einstein?

A. No, I did not read that. And some rather recent [3968] book reviews under the name of John Land that came out in Mercury, I think.

Q. Now, Doctor, the other day you were asked about the disease nepatitis and you said that you did not know that there was such a disease. That is the disease in Mr. Chambers' father's death certificate. And Mr. Cross asked you whether or not there was a disease known as hepatitis. Now, is there a disease known as nephritis? A. Yes.

Q. And that is a disease of the kidneys, is it?

A. Yes, sir.

Q. And is, sometimes, death from nephritis diagnosed as a heart disease? A. It could be, yes.

[3969] Q. Now, Doctor, you said that you attributed some paranoid thinking to Mr. Chambers by reason of the fact that when Mr. Cowley testified when he had lunch with Mr. Chambers in 1940 he said that there were spies all around us. Now, Doctor— A. Wasn't it spies and traitors?

Q. Spies and traitors all around us. A. And kept looking around the room.

Q. Now, you knew, of course, that that was a fact, didn't you; that in 1940 there were spies all around us, traitors? A. I think that is a fact—that was a fact, probably. I don't pick out one sample as evidence of paranoid thinking alone.

Q. You knew in 1940 that some 30-odd defendants were convicted in the Federal Court in Brooklyn for espionage in the Dusquesne case, don't you, Doctor? A. I do not, I am sorry.

Q. Now, what were the facts, Doctor, based upon those statements of Mr. Cowley that you said gave evidence to you of paranoid thinking? A. That is a kind of sample. The other one was that he was now—I do not recall the exact words—something about the Christian-

Democratic Front that he was now—that Chambers was now representing.

Q. Let us take the first fact, about the spies and traitors that were around us in 1940. What is it [3970] in those facts that gives to you, as a doctor, the thought that that was evidence of paranoid thinking?

A. I put that together with what I heard him say in the trial here, that lying takes many forms and there are liars all around us. This was another example of inimical people around him, and there are many other instances of his fear of persecution which you say is legitimate for a Communist. I personally have never heard of an American Communist who has been put to death by the Communist Party. It is true of Trotsky and true of the woman who jumped out of the window, perhaps—she wasn't killed, but she was threatened—and true of Colonel—what was the man's name?

Q. General Krivitsky. A. General Krivitsky—I have never heard of a functionary of the American Communist Party who was killed. It may be true, but I would regard that, the fact that he told Mr. Murphy that Grace Hutchins had telephoned to his mother telling her that if he did not rejoin the Communist Party by Thursday he might be put to death—I would regard all of those things, although they may have some element of truth in them, as evidence of a fear of persecution and that is part of paranoid thinking. But there are other elements of paranoid thinking, and that is a certain grandiosity.

Q. Doctor, could it be paranoid thinking if what he [3971] was thinking about was true and the facts if they existed in reality—could that be paranoid thinking? If there were spies and traitors around us in 1940, if there were people who lied, and lying took many forms, and those are all facts and real things—is that paranoid thinking?

A. The way it is put sounds like it.

Q. Isn't paranoid thinking based upon delusions?

A. Either delusions or projections of your own wishes on to the outer world.

Q. Yes, but, Doctor, don't you have to know what

the delusions are before you come to the medical conclusion that it is paranoid thinking? A. Yes.

Q. You have no facts at all as to what the delusions are if any existed, have you? A. I wasn't claiming any delusions.

Q. Well, let us eliminate that, then, delusions, shall we? A. Yes.

Q. What do you say are the facts upon which you come to the medical conclusion that there was evidence of paranoid thinking? What are the facts?

A. The particular things that Mr. Chambers said from time to time.

Q. Yes? Now how do you know on the assumed facts in evidence that they were not true? A. Am I to assume that he was a better Communist than Stalin?

[3972] Q. You are assuming that is what he said? A. Yes?

Q. Now, in order to get back into his mind, Doctor, you have to have other facts, don't you? A. Am I to assume that that is a true statement?

Q. Assuming that it is true, yes. A. Yes, that he was a better Communist than Stalin?

Q. Yes, a better Marxist. A. Didn't he say "Communist"?

Q. Yes? A. Not Marxist; Communist.

Q. Do you know the difference? A. I presume Mr. Chambers does.

Q. Tell us, Doctor, please, the facts, the facts upon which you say Mr. Chambers gave evidence to you of paranoid thinking; and you have removed from your definition of paranoid thinking any delusions now, and you are going now into some projections of imagination. Tell us what the facts were from which you came to that medical conclusion.

A. Things that he said.

Q. All right. Now when he said those things how do you know they were not true? A. I assumed he is not a greater Communist than—a better Communist than Stalin; I assume that he is not gradually and grudgingly

destroying himself so that the American way of life will be preserved—

Q. You are assuming that? A. That is right, because I think his self-destruction has very little to do with the [3973] preservation of the American way of life; I am assuming when he said he joined the Communist Party to contribute to the salvation of the world that his joining the Communist Party had very little to do with the salvation of the world. Those are the kind of grandiose statements in which a person confuses his own importance with the reality of the situation which I call paranoic.

Q. You call that paranoid thinking, Doctor?

A. I do.

Q. On the two assumptions you gave us you are assuming that they are not true, is that correct? A. I think there were three assumptions.

Q. Yes, but the first two. A. Which two?

Q. The assuming that he was a better Communist than Stalin and assuming that he was slowly and grudgingly—this was after the last trial he said that—he was destroying himself. A. So that the American way of life might be preserved.

Q. That is right, he had given up a $30,000-a-year job, and everything else that was said about it, and that that is not slowly destroying himself; you have assumed that that is not true. Assuming it is true, Doctor. A. I am not saying he is not destroying himself.

Q. Yes, but point out to us, you have to come something that is not real in order to arrive at this [3974] paranoid thinking, don't you, Doctor? A. Yes, that is right.

Q. You have to put your finger on some fantasy.

A. Would his self-destruction contribute to the preservation of the American way of life?

Q. That is for other people to answer. You are here to tell us why you arrived at the conclusion of paranoid thinking; that this man exhibited symptoms of paranoid thinking. You are telling that to us as a doctor?

A. That is right.

Q. And I am asking you on what facts are you basing that statement, and you have given us three. Now, are

there others? A. The various statements he has made about his own self-destruction and the ones that I brought out this morning which you do not accept, his testimony that he went to the Hisses and feared an ambush and stayed to dinner.

Q. Doctor, didn't you tell us this morning that that was not abnormal emotionality? A. That was not brought up under the terms of emotionality. It was brought up under the terms of bizarre behavior.

Q. Didn't you tell us that it was not bizarre?

A. I think you put me in a position by asking me to assume something which may or may not be true to which I had to say "Yes."

[3975] Q. Do you have any more, Doctor, any facts upon which you have come to the conclusion that Mr. Chambers has exhibited paranoid thinking? A. I have given you the three which have to do with his own grandiosity; and the others are the ones in the Cowley testimony.

Q. But you admitted, Doctor, that that might very well be true. A. That there were liars and spies—

Q. Spies and traitors around us and lies in all forms.

A. I think if you go into a hotel room and look around and say there are traitors and spies all around us, that is certainly very suspicious, that kind of thinking. Would you do that?

Q. Now, Doctor, so that it can be quite clear, I ask the question. A. All right.

Q. Now, do you have any facts, Doctor, other than what you have told us which make you believe that Mr. Chambers exhibited paranoid thinking? What does "paranoid" mean, Doctor? A. It is usually thinking that is predicated on one's own fears or wishes or beliefs.

Q. Or fancies? A. Or fancies, which are then projected out into the world when there is no basis in reality.

Q. In other words, if a man said he was President of the United States and he ordered people around, and [3976] so forth, that would be some evidence of paranoid thinking?

A. That would be an extremely striking example.

Q. What? A. That would be a good example; or if he fears the room is wired when there is no reason to suspect that it is, of if he fears that he is being followed and persecuted when there is no reason to believe that he is—

Q. In other words, there has to be no reason for it?

A. And also if he has ideas of his own grandiosity.

Q. Well, some people have that, don't they, Doctor, without being paranoids, would you say? A. Yes.

Q. Doctor, you said that another characteristic was false accusations, and you gave as an example the fact that Mr. Chambers falsely accused Mr. Duggan. Now, Doctor, assuming now that Mr. Chambers did not accuse Mr. Duggan of being a member of the Communist Party when he spoke to Mr. Berle in 1939, what other evidence would you have in your hypothetical question that there was evidence of false accusations with regard to Mr. Duggan? A. With regard to Mr. Duggan?

Q. Yes. A. Oh, none.

Q. None? A. It is based entirely on that.

Q. Because your assumed state of facts said that when he talked with Mr. Murphy in 1945 and 1946 he specifically said Mr. Duggan was not a member of the Party.

[3977] A. Yes; I was asked to assume that he had said that to Mr. Berle, and then that he had reversed himself.

Q. But I am saying, Doctor, if you assume that he did not in fact say that to Mr. Berle and said the opposite to Mr. Murphy, and said so in so many words when here on the stand, you would say that there was no evidence as far as Mr. Duggan was concerned of false accusations; that is right, isn't it? A. That is correct.

Q. And you know, of course, that the statement with regard to Mr. Duggan that appears in Mr. Berle's notes was Mr. Berle's notes that he gave to the FBI in 1943; there is no testimony there that Mr. Duggan was accused by Mr. Chambers; you realize that, Doctor?

A. You have told me that.

Q. Yes. Now, Doctor, assuming that with the exception of going to Mr. Berle in 1939 with Mr. Isaac Don Levine, in all other cases people came to Mr. Chambers; in other words, Mr. Murphy came to him at his farm on two occasions; that he testified before the House Committee pursuant to a subpoena from that Committee; that he testified in the grand jury pursuant to a subpoena from that body; that he testified here pursuant to a command, and the FBI went to see him on other occasions—would you say that under all of those circumstances, assuming those are the facts, that that would be the action of a person [3978] accusing somebody, or would a person who was accusing go to the other people and accuse? A. I think I have cited only two examples of accusation, false accusation. I know of no others.

Q. I am asking you as a doctor, if you assumed the facts to be that the man did not go and make accusations to A, B, C, D, E and F, but people came to him and he answered questions pursuant to their command or demand, would you say that that is the attitude of a person who makes accusations as such? A. I would like to be as accurate as I can. It is certainly not the attitude of a man who makes indiscriminate accusations.

Q. The statement that Mr. Chambers made on the radio, assuming that that was made, Doctor, pursuant to a dare of Mr. Hiss; Mr. Hiss says in substance "I dare you to say outside," that would also fit into the category of a person who does not go around making it, who is asked to make it? A. No, it has no bearing on that.

Q. Has no bearing? A. No.

Q. Assuming that he was consumed with the idea of fighting Communism as distinguished from fighting an individual, would that have any bearing?

A. I don't think so.

Q. No bearing at all? A. I don't quite understand the bearing. It may have.

[3979] Q. Well, assuming, Doctor, that over a period of many years Mr. Chambers did not say anything about espionage; assuming that he told nobody about the perfidy of Mr Hiss until 1948 in the grand jury or in the Baltimore

deposition, but that he previously, since 1939, when he was asked said that X and Y and Z were members of a Communist apparatus, and denied that there was evidence of espionage, would you say that that would be the actions of a person making false accusations?

A. I would not know.

MR. MURPHY: Shall we recess now, your Honor?

THE COURT: Very well.

(Short recess.)

BY MR. MURPHY:

Q. Doctor, some of the observations that you made of Mr. Chambers when you observed him at the last trial and once on this was that he had a rather vague memory for dates. Is that a symptom of anything at all, Doctor?

A. Everything is a symptom of something, but that—

Q. Isn't it a symptom of being normal? A. It could be, yes.

Q. Doctor, you also pointed out that he recalled on one trip that he took with Mr. Hiss to Erwinna, Pennsylvania, over the Easter weekend there, one of the things he remembered was a policeman who had a lily [3980] in his hand on that Saturday, and you thought that was—

MR. CROSS: It was Easter Sunday.

MR. MURPHY: Easter Sunday I am told.

Q —you thought that was a characteristic of something, but I forgot what you said it was. A. I said that not to remember your wedding day was extraordinary but that to remember details of that sort was also extraordinary; that it showed a strange kind of memory.

Q. A strange what? A. A strange kind of memory.

Q. A strange kind of memory? A. Yes.

Q. Doctor, do you say that a man who does not remember the exact date he got married exhibits some sort of a symptom of psychopathic personality?

A. No one thing is a symptom of psychopathic personality.

Q. Would you say that a person who remembered the month and the year after 19 years was doing fairly well?

A. Pretty good.

Q. Doctor, isn't it a fact that most normal people remember incidents of the past by some strange or outstanding thing? I mean, couldn't a woman remember something by the color of another woman's hat 20 years ago which had no real relation to the fact itself except that she remembers this big feather sticking up, that sticks out very clearly in her mind—doesn't that sometimes happen with all of us, Doctor, that some [3981] little thing sticks in one's mind? A. Some little things sometimes help to recall others, that is right.

Q. And a little thing by itself may have been just a very, very small part of the whole incident?

A. That could be true.

Q. Now, Doctor, another observation that you made was that during the time that Mr. Chambers was on the stand in the last trial and once here he appeared to have no remorse, I think you said; no remorse when he testified about the various times when he did not tell the whole truth. Do you attach— A. That is not exactly what I said. When he testified to the fact that he had lied I said he showed no contrition or remorse or any apparent emotion. He did it in a sort of debonair way—"Yes, I was."

Q. I think you said "bland." A. Bland.

Q. You realize of course, Doctor, or assume, Doctor, that Mr. Chambers told his story to 12 ladies and gentlemen at the last trial for a period of seven or eight days; that he had previously told the story to the grand jury over many days— A. You mean told that he had lied?

Q. Assuming, Doctor, that he told the facts; bear in mind that he had been to the grand jury in October 1948 when he denied that he had any knowledge of espionage.

A. Yes?

[3982] Q. And that same body of men and women heard him during the five or six or eight days, whatever the time was, in December of 1948 when he told them what the facts of espionage were; and assuming further, Doctor, that he previously told it all to the FBI before he went to

the grand jury, and assuming that he told it at the last trial—do you still feel, Doctor, that a person who has told it so many times under so many different circumstances should exhibit outward emotions on the witness stand?

A. I would assume—

Q. I think I can ask for a yes or no answer on that, Doctor. A. I think he should.

Q. He should? A. Yes.

Q. Now, Doctor, can you tell when a witness is experiencing the emotion, let us say, remorse sitting 25 feet away? A. I cannot.

Q. You cannot? A. No.

Q. So you don't know whether or not Mr. Chambers was inwardly feeling remorse when he told the story here? A. I can only testify to what I saw.

Q. And you cannot tell from 25 feet away what the inward feelings were? A. No, I could say something about his outward manner.

Q. Yes, but you cannot tell about remorse which is a feeling within us? A. That is right, I can't see remorse.

[3983] Q. You can't see it? A. Not unless there is some outward manifestation of it.

Q. And sometimes people have remorse without manifesting it outwardly? A. That can be true.

Q. As a matter of fact, we sometimes see it playing poker, don't we, when we say "poker face"? A. That is right.

Q. Now, Doctor, you also told the jury that Mr. Chambers had a characteristic of psychopathic personality in that he panhandled or that he showed symptoms of panhandling. Now, Doctor, before I go into that do you want to withdraw that? A. I didn't say what you just said. I said that panhandling was one of the symptoms of psychopathic personality.

Q. And you said that Mr. Chambers exhibited some of those symptoms? A. I said I specifically talked about his borrowing money and not paying it back.

Q. Now, Doctor, I am going to ask you whether you want to withdraw that now before I question you on it?

A. I would be glad to have you question me on it.

Q. All right, let us first find out, one, is the term "panhandling" a medical or just an ordinary dictionary term we all know? A. It is a lay term.

Q. Lay term? A. Used in the literature on this subject.

[3984] Q. And it means accosting strangers on the street? A. I should think that was right, yes.

Q. And we people here in New York are familiar with it because we are so near to the Bowery and other places where we see so many, is that correct? A. That is right.

Q. And you tell this Court and jury with all the seriousness that you can command as an experienced doctor that Mr. Chambers is guilty of panhandling?

A. I tell that he on two occasions to my knowledge, at least to my knowledge from the hypothetical question, borrowed money from friends and made no attempt to pay it back. I call that panhandling. If you want me to withdraw the name and call it something else, I will.

Q. Doctor, you said you didn't want to withdraw it, and I am going to ask you whether, as you sit there before these ladies and gentlemen of the jury, as a respected member of your profession, you tell them that on the facts that were assumed in the hypothetical question in your opinion Mr. Chambers exhibited symptoms of panhandling? A. Not in the sense that you are using the word, no.

Q. Now, Doctor, we have agreed on the meaning of the word. You said it was an ordinary lay word, and I will read to you what you said on page 3685:

"Q. Are there facts which would fall under panhandling? [3985] A. Panhandling is one of the symptoms that I mentioned. One has the testimony of Wadleigh, that he borrowed $20 from him and made no effort to pay it back, or borrowed $10—I think Mr. Wadleigh said $20—made no effort to pay it back; and in the hypothetical question I have been asked to assume that on several occasions he borrowed small sums from Mr. Hiss, and again made no effort to repay them."

Now, Doctor, do you say now that when a person borrows $20 from a man that he has been friendly with for a period of a few years, like Mr. Chambers was with Mr. Wadleigh, and did not pay it back, that that to a trained psychiatrist is evidence of panhandling? Really, Doctor, do you mean that?

A. No. I think you win on that.

Q. Now, you stated, Doctor, that Mr. Chambers exhibited a symptom of a psychopathic personality known as vagabondage, and that was because you assumed in your state of facts that Mr. Chambers after he got out of high school and was about 17 or 18 years of age, ran away from home and lived in the City of Washington and worked there, and subsequently went to New Orleans where, according to his own testimony, he lived in some sort of a dive, and subsequently returned home on money that was supplied I think by his parents through his grandfather. Now, Doctor, are there other evidences in the hypothetical question which lead you [3986] to believe that Mr. Chambers exhibited the symptoms of vagabondage other than those that I have described?

A. That is the only one.

Q. Doctor, a boy who runs away from home, in the year 1920, whatever the year was then, and who returns in a period of three months, who works, supports himself for a while—is that really evidence of vagabondage?

A. One piece of evidence, yes.

Q. That is the only evidence that you have?

A. That is right.

Q. Doctor, haven't there been rather famous people who have run away from home and who have made quite a success of themselves? A. I am sure there have.

Q. Dick Wittington became Lord Mayor of London, didn't he? A. I think so.

Q. Benjamin Franklin ran away from home.

A. Did he?

Q. Doctor, when Mr. Chambers ran away from home at the age of 17 or 18 and worked and supported himself, and finally went back to college, completed almost three years of college, did you seriously take that into con-

sideration as symptomatic of vagabondage?

A. I would consider his running away from home an important symptom.

Q. But, Doctor, you did not know why, did you? [3987] There were no facts in the hypothetical question as to why he ran away from home? A. Not beyond the fact that he ran away from home.

Q. Just ran away from home? A. And lived incognito from his family.

Q. Yes, but you had no facts; you don't know what the reason was, and nevertheless you attributed to that fact a symptom of psychopathic personality?

A. I think it is an important symptom in the symptom complex because it has been so described repeatedly.

Q. But in a period of 50 years, that is the only evidence you have, after a boy got out of high school, almost emancipated—he was about to make his own living—and you say that was one of the symptoms?

A. One of many.

Q. One of the symptoms that you add to come to the total of psychopathic personality, but only the one symptom of vagabondage? A. Only one.

[3988] Q. How about Al Jolson? He ran away from home. Would you say that was evidence of a psychopathic personality? A. I don't know anything about Al Jolson's personal life.

Q. Well, Doctor, you said another symptom was the fact that he was untidy. Seriously, Doctor, a person who is untidy, does that mean that they are manifesting a symptom of psychopathic personality? Can't you name dozens of people who are untidy who are respected members of our community? A. I can't name dozens whose—

Q. Well, let's see. A. —whose mouth was described as filthy, who testified—

Q. Well, we will come to the teeth in a second. Would you describe Professor Einstein as a well dressed man? A. I have only seen him once, and on that occasion—

Q. He had a sweatshirt on then? A. No, that was the tercentenary celebration at Harvard, and he was dressed up for the occasion.

Q. He was dressed up for the occasion? A. That is right.

Q. How about Will Rogers? Do you know Will Rogers?

A. Oh, sure.

Q. A fastidious fellow, was he? A. I never looked at his linen. It wasn't described as filthy, as it was in this case, or dirty.

[3989] Q. Well, how about Owen D. Young and Thomas Edison?

A. I haven't seen either of those gentlemen.

Q. Heywood Broun? Do you remember Heywood Broun?

A. A classmate of mine.

Q. Tidy or untidy? A. Oh, dirty.

Q. Howard Hughes, the airplane man? A. Never saw him.

Q. Bing Crosby? A. I don't get around as much as you do, Mr. Murphy.

Q. Doctor, that is not evidence of a psychopathic personality, is it, how a person dresses? A. No.

Q. No. A. Never said it was.

Q. Now, Doctor, lastly, you said that one of the things that you attach importance to was the fact that Mr. Chambers had unstable attachments. That is one of the real characteristics, isn't it, of psychopathic personality?

A. It can be.

Q. Doctor, in all seriousness, as a man who has been out of medical school since 1914, do you tell us that Mr. Chambers has no stable attachments when we know, and you have assumed, that he has been married to the same woman for 19 years? A. I did not say he had no stable attachements.

Q. Well, if he had stable attachments—and that is a stable attachment, isn't it? A. It can be.

Q. Well, it is, Doctor, isn't it? 19 years? Won't [3990] you concede that being married to the same lady and being the father of her two children and living with

her for 19 years is cogent evidence of a real stable attachment? Won't you concede that, Doctor?

A. I have known marriages that have lasted longer than that that appeared to be stable and weren't. I don't know the nature of their marriage. I am perfectly willing to assume what you want me to assume.

Q. Yes. Assume that, Doctor, and then tell us, as a professionally trained man, whether that is evidence of a stable attachment? A. If you ask me to assume that it is a good marriage and that he has stuck to this one woman as you describe, of course that is evidence of a stable attachment.

Q. As a matter of fact, a marriage of 19 years is one of the best evidences of stable attachments, isn't it?

A. Of that kind of attachment, yes.

Q. Doctor, assume that Mr. Chambers went with Time Magazine in 1939 as a book reviewer and over a period of almost ten years rose in that organization until he became one of the six senior editors, at a salary of $30,000 a year, and during that time worked hard for that magazine, wouldn't that also be very cogent evidence of a real honest-to-goodness stable attachment? A. In that particular instance, yes.

[3991] Q. Now, Doctor tell us, please, in seriousness, what you considered in the hypothetical question Mr. Chambers' unstable attachments were. A. To the Communist Party, to the United States—

Q. Well, let's see. He was not attached to the Communist Party with any degree of stability, is that what you mean? A. He was in and out of it.

Q. Let us see. Assume, Doctor, that he joined it as a junior in college, in 1924 or 1925, and he left the Communist Party in 1938; assume further that he was the editor of the Daily Worker; assume that he was editor of the New Masses; assume that he worked almost for nothing, that sometimes he got $10 a week and sometimes nothing; assume that he was paid $25 a week and $35 a week when he was a paid functionary of the Party; assume that he went underground for them and during all of that time had no other positions; and assume, Doctor, that from 1924

or 1925 until 1938 that was his only job, wouldn't you say, whether his philosophy was right or wrong, that it was a rather firm attachment to that cause?

A. I was referring to the fact that he was in the Party, out of the Party, in the Party and out of the Party.

Q. Well, Doctor, you are referring to some dispute in [3992] 1925, when the Lovestonites got out and the Stalinists came in; is that what you are referring to?

A. When he got out, yes.

Q. Well, he didn't get out. He said he sulked; he went and never gave up his card. He was, and I think you said yourself, that part of the testimony was that he felt he was as good a Communist as Stalin? A. Better.

Q. Better. So it is not in and out? A. I understood that it was.

Q. Well, assuming that it was not, Doctor, that he was a Communist to the core commencing from the day that he told Professor Van Doren, down to April 1938. A. Well, I wouldn't call that an unstable attachment.

Q. Now, what else did you say was an unstable attachment, based upon the facts in the hypothetical question? A. Oh, I talked about his career at the public library, his career at Columbia, his episode at Williams. With respect to these institutions he was there and gone, and sometimes back again.

Q. Well, let us see, Doctor. When a boy registered at Williams, assume that he went there for two or three days, decided that it was not the place for him either socially or economically, and left almost within a matter of three days. You don't describe that then as an attachment, whether unstable or stable, do you?

[3992a] A. You are right.

Q. And in Columbia, he left and came back by virtue of the fact that he had written this offensive play?

A. Came back by virtue of that fact?

Q. Sorry, sir? A. You say he came back by virtue of that fact?

[3993] Q. No. He left, as I understand it, in his sophomore year— A. Yes.

Q. —by virtue of that fact. And he came back, he

was not expelled; he just left of his own and he came back and stayed for part of his junior year. I think that is the testimony.

Do you say, Doctor, that a man who attends only part of three years at college exhibits unstable attachments? There must be thousands of those people, aren't there?

A. I don't know how many.

Q. Well, don't you think, Doctor, from your experience as a New Yorker, that you feel that there must be literally thousands of people who don't finish college?

A. Oh, certainly.

Q. And you don't say that they have unstable attachments when they leave college in the middle of their college career, do you? A. They could have. I wouldn't know.

Q. But there are so many different reasons why people leave college? A. That is right.

Q. Now, what other factors did you say—oh, the library. How long was he working in the library before he was fired, under your assumed state of facts?

A. A fair number of years. I can't remember the exact number.

[3994] Q. Well, until he was fired, that showed an attachment to the library? A. Until he was fired, yes.

Q. And when you say "fired," that does not mean that you have a lack of attachment; somebody else has intervened and divorced you of that attachment; isn't that so, Doctor? A. Unless you do something which brings that about.

Q. Yes. But you might still have the attachment? You could, couldn't you, Doctor? Suppose you worked for somebody for 15 years and you got fired?

A. Well, if I did something—

Q. You could still have the attachment? You couldn't say that would be a loose attachment? A. If I did something inimical to that person, I wouldn't call it an attachment.

Q. Whether you did it inimically or not, whether you hurt the person, you had the attachment up until that time? You must have, if you stayed there and worked.

A. Up until the time when you performed something which caused you to be fired, yes.

Q. And that is the evidence from which you say Mr. Chambers had unstable attachments, and one of the symptoms which caused you to say he had a psychopathic personality?

A. That is right.

Q. The fact that he was attached, Doctor, to the non-religious concept of atheism for so long a period of [3995] time, can you say that that was an attachment, even to that cause? A. No.

Q. Well, except for one change in religion, and atheism is not religion, it is the denial of religion, except for one change in religion he has been a member of a community for Quakers for—

MR. CROSS: Two changes.

Q. (Continuing) —except for one change in religion, Doctor, he has been a member of one religion for the last six years, the Society of Friends. A. He went from atheism to Episcopalianism and then to the Society of Friends.

Q. And don't we agree that atheism is not religion?

A. Well, it is the denial of religion.

Q. The denial of religion. He was an Episcopalian for a short while. Except for the one change in religion, didn't he and doesn't he now, under the assumed state of facts, indicate an attachment to the Society of Friends? A. Six years, so you tell me.

Q. And it is up to the present time. You do not look into the future and tell us what our attachments are in the future, do you, Doctor? You can't. A. Certainly not.

MR. MURPHY: Will you just excuse me for a minute, your Honor? I may be able to finish with the witness.

Q. Now, Doctor, did you say that there was some evidence of psychopathic personality when a person has [3996] bad teeth? A. No.

Q. So we can't attach any medical importance to that as far as psychiatry is concerned? A. Yes, we can.

Q. What conclusion do you draw from a person who has bad teeth, psychiatrically speaking? A. If the bad teeth are the result of neglect—

Q. They usually are, aren't they? A. Usually.

Q. Yes. A. And if the neglect is the result of not going to a dentist and have proper hygiene done, I would certainly attach some significance to that.

Q. Not too much? A. Some. Certainly a man who earns $30,000 a year shouldn't have what is described as a filthy mouth unless he has some particular feeling about going to the dentist to have his teeth—

Q. It was in 1942, wasn't it? And he had his teeth fixed in 1942? And it was recently that he made $30,000? He was just coming up? A. You mean he didn't have enough money to go to the dentist?

Q. No. I am trying to find out what medical significance it was, and you said that you think a man who makes $30,000 and doesn't have his teeth fixed exhibits some evidence.

A. That is right.

Q. If you assume, Doctor, that it was in 1942 that Mr. Chambers was described as having a filthy mouth and it was at that time that he had dentures and extractions, would [3997] you say that that was some evidence of psychopathic personality? A. Yes, I think that degree of neglect of one's self is some evidence.

Q. Is some evidence? A. That is right.

Q. So that all people who neglect their teeth would be exhibiting some evidence of psychopathic personality? A. No. That is like your question about running for the midnight train. It has no meaning. You have to take everything into consideration.

Q. Well, Doctor, taking everything into consideration that you have told us about on cross-examination, do you tell us now, as a trained psychiatrist, that in your opinion Mr. Chambers is suffering from a disorder of character known as psychopathic personality? A. Most certainly.

MR. MURPHY: You may examine.

MR. CROSS: It has run past the hour, your Honor. It will take me a few minutes, and I can't do it—

THE COURT: You would not finish in a reasonable time, you think, Mr. Cross?

MR. CROSS: I don't think so. I think it will take me half an hour.

THE COURT: All right then. I think we had better adjourn until tomorrow morning at half-past ten.

(Adjourned to January 12, 1950, at 10:30 a. m.)

[3998] New York, January 12, 1950; 10:30 o'clock a. m.

Trial resumed.

CARL A. L. BINGER, resumed the stand.

Redirect Examination by Mr. Cross:

Q. Dr. Binger, you were asked in cross-examination the date when you were certified by the American Psychiatric Association, and I think you gave the year 1946.

A. I should say that I was not certified by the American Psychiatric Association which has nothing whatever to do with certification, but by the American Specialty Board of Neurology and Psychiatry which is quite different from the American Psychiatric Association.

Q. That was in 1946, was it not? A. Yes, sir.

Q. And you stated that there was some regulation, and Mr. Murphy stopped you and said your counsel could bring that out. That is at page 3708. Now, Dr. Binger, I will ask you what the regulation is to which you referred and also any reason for your deferment in your certification.

A. Yes. I can answer that. I was graduated in 1914. The Boards did not come into existence until 1934, so I could not possibly have been made a member of the Board [3999] until just shortly after I was certified by another specialty board, the American Board of Internal Medicine, by which I have been certified without examination on my part.

There was a regulation at that time saying that no person could be certified by two specialty boards. That regulation was then rescinded; a month or two after it was rescinded I was certified by the American Board of Neurology and Psychiatry without examina-

tion, on my record. I was unwilling to take the examination because just as the bar examination, having graduated—

MR. MURPHY: I object to the reason why.

Q. You were certified when the regulation was changed?

A. Immediately after.

Q. And how long had you been certified in internal medicine? A. I don't know exactly how long, but I am sorry to say I do not know the fact, but I would guess somewhere in the '30s to '40s. I don't know. About 1935 or so.

Q. Have you been certified for a number of years by the Department of Mental Hygiene, Board of Psychiatric Examiners of the State of New York? A. Yes, I have.

Q. I show you a card and ask you what that is, Doctor.

A. Well, that is simply a State of New York, Department of Mental Hygiene—

[4000] MR. MURPHY: I ask the Doctor not to read it, please.

THE WITNESS: I beg your pardon.

Q. Without reading it, is that a certificate by the State of New York of you as a psychiatrist?

A. Yes.

Q. Is that an extension? A. Yes.

Q. And the date of the extension is when? A. Extended to or from when?

Q. No. From. A. The 26th day of November, 1940.

Q. And when were you first certified by the Board of the State of New York?

MR. MURPHY: Certified for what?

THE WITNESS: You asked me not to read it, so I can't tell you for what.

Q. Will you tell us what the Board was in New York which certified you, Dr. Binger?

A. May I read what it says?

Q. No. Just tell us the Board. A. Board of Psychiatric Examiners.

Q. Of the State of New York? A. State of New York.

Q. And your certification was extended in 1940 to some time from 1940 to 1952? A. That is right.

Q. When were you first certified by the New York Board? A. I have not the slightest memory on that. [4001] I don't know.

Q. But it was obviously some time prior to 1940?

A. That is right.

Q. Were you approved by the Army Service Forces of the Second Service Command with a group to conduct a study among German prisoners of war at some time, Dr. Binger?

A. Yes, sir.

Q. Will you tell us when you were making that study?

A. In 1945.

Q. What was the nature of this study? A. We were studying the personalities of war prisoners in one of the prison camps and we were trying to find out something of their attitude towards the Nazi horrors and something of their attitude towards democratic principles and to find out what their general social and political views were as respects Nazism and democracy.

Q. Is this paper I have shown you your authorization to visit German prisoners of war for that purpose?

A. That is correct.

Q. Who else were in the group? A. Oh, there was a large group of sociologists, psychiatrists, and anthropologists.

[4002] Q. In your internship, which I think you told us was from 1914 to 1916 at the Massachusetts General Hospital, in what field or fields did you receive your internship experience? A. In general, internal medicine and in neurology.

Q. Has the study of neurology anything to do with psychiatry? A. Something, but not more than the study of internal medicine, in my opinion.

Q. You told us about your studies in Europe. Will you tell his Honor and the jury—I think you may have covered it in direct, but just to refresh my mind—when was it you returned from your studies abroad?

A. The latter part of December 1929.

Q. When you returned to the United States, did you then begin the practice of medicine? A. Yes, and the study of psychiatry.

Q. At that time did you begin to specialize in the study of psychiatry? A. It was a gradual process. I moved gradually toward the specialization in psychiatry.

Q. In connection with that continuation of your education and training in the psychiatric field, did you work in any institute or any clinics in this country after your return in 1929? A. A great deal of work.

Q. In what institute or institutes or clinics?

A. New York Psychoanalytic Institute, [4003] Vanderbilt Clinic, Cornell Clinic, Clinic of the Psychiatric Institute, eventually the Payne Whitney, where I still am.

Q. Covering a period of how long? A. Well, education is a continuing process. I can't tell you when it began and when it ended. I am still trying to educate myself.

Q. I mean so far as attending institutes or clinics.

A. Oh. Three years or so.

Q. For how long have you specialized in psychiatry and psychosomatic medicine? A. For about 20 years.

Q. Did you receive a diploma from the American Board of Neurology and Psychiatry? A. Yes, I did.

Q. Just what was that date? A. May I tell you just a very few words about what the American Boards mean?

Q. Yes. A. The American Boards of Specialists were set up in 1934, I think from the impetus of the American Medical Association. The various specialists set up their own specialty boards. This is a greatly prized thing by the younger men because jobs, especially Government jobs for the Army and the Navy and the Veterans Administration, are partly dependent on being a diplomat. The

universities don't care a hoot whether a man is a diplomat or not.

MR. MURPHY: I don't think the doctor is qualified to speak for the universities, your Honor. [4004] May I ask that the answer be more responsive?

THE WITNESS: I am sorry. I may say that two of the gentlemen who Mr. Murphy quoted as authorities—

MR. MURPHY: Now, your Honor—

THE WITNESS: —were not diplomats.

MR. MURPHY: May I ask that the answer be responsive? He was asked to explain what he means by boards, and I think his comment about the universities or the doctors is not responsive to that question.

THE COURT: I don't think it is, Mr. Cross.

THE WITNESS: Sorry.

Q. Just tell us about when the boards were set up and what their functions are. A. They were set up in 1934. Their function is to designate who has a right to call himself a specialist, and that right is determined either by taking examinations or in some instances by passing a man on his record.

Q. About how numerous are the people that they certify in a particular field? A. I can't speak for other specialties. In psychiatry, of a little over 5000 psychiatrists who are members of the American Psychiatric Association, there are a little over 3200 who are designated as specialists by the American Board.

Q. Are you a member of some board of directors having [4005] to do with mental hygiene? A. I am a member of the board of directors of the National Committee for Mental Hygiene.

Q. How long have you been a member of that board?

A. Two years.

Q. I think you told us you were editor-in-chief of the journal put out by the American Psychosomatic Medicine, did you not? A. Yes, sir, I did.

Q. How long have you been a member of that organization? A. Oh, since its beginning, which was about 13 years ago.

Q. Mr. Murphy asked you if you attended some Congress in London, and read some interview that you gave as printed in the New York Times, and you made one correction. You said with one correction you would say that that was a correct interview.

I want to ask you now what that Congress was?

A. It was the Second International Congress on Mental Health. It was different from the previous one, partly because of the post-war situation, partly because it included representatives from more than 60 countries—not all psychiatrists; some of them were sociologists, some were anthropologists, some were social workers that represented the Ministry, teaching professions, even the law. All people, or a great many people who take the subject [4005a] of mental health in the world seriously, recognize it as an important problem. All of those people—not all of course—representative of organizations interested in that subject gathered in London, had carefully planned a program which had been planned for a year in advance and met for a period for plenary sessions, small groups, and discussions.

[4006] In what capacity did you attend that Congress?

A. I was asked to represent the American Psychiatric Association—to be one of the representatives—and to be one of the representatives of the National Committee for Mental Hygiene, and I was invited by the Program Committee in London to give the keynote speech or the opening address for the whole Congress.

Q. And was that the address that you gave some interview about following the making of the address? A. Yes, sir.

Q. Mr. Murphy quoted from one of your books, although he did not give us the name of it or the page. I think it was your book "The Doctor's Job," and you also told us, I think, that you had a book published last November?

A. Yes, sir.

Q. That was in your direct. A. Yes.

Q. Have you published other articles or books? A. Yes, I have.

Q. In what field? A. In the field of medicine and psychiatry.

Q. Will you give us just a few of the articles that you have written? A. Well, I think the only other thing you would call a book I mentioned the other day was called "The Personality in Arterial Hypertension."

I published a good deal about high blood [4007] pressure in relation to the emotions. I have published papers about heart disorders in relation to the emotions; and I published 50 to 60 papers; I can't offhand tell you what they are all about. They are in this general field.

Q. Was one "Psychiatry for the Millions"?

A. Yes.

Q. Was that published in the Cincinnati Journal of Medicine? A. Yes, sir.

Q. Did you also have one "Psychological Phenomena in Cardiac Patients"? A. Yes, sir.

Q. Was that published as a bulletin of the New York Academy of Medicine? A. It is published in the bulletin of the New York Academy of Medicine.

Q. Was there also an article "Critique of Psychotherapy in Arterial Hypertension"? A. Yes, sir.

Q. Was that published in the same journal?

A. In the same bulletin.

Q. Was there also a chapter on psycho-analysis in a textbook of medicine published by the Oxford University Press? A. Yes.

Q. "What Can We Learn" from a medical history published in American Medicine? A. Yes, sir.

Q. You said in cross-examination, Doctor, that you were psychoanalyzed in the sense that anyone who studies [4008] has to be examined by Dr. Jung. I think you said that no one can do psychoanalysis without having been psychoanalyzed; am I correct in stating that testimony?

A. That is the ruling of the Psychoanalytical Society, that part of your training is to be analyzed yourself; otherwise you can't be a member.

Q. Who is Dr. Jung? A. Carl J. Jung is one of the great leaders of psychiatric thought in the world.

Q. And you said that you were also psychoanalyzed after you returned to this country? A. That is right.

Q. By whom? A. By Dr. Fritz Wittels.

Q. At the present time is your practice confined to psychiatry and psychosomatic medicine, Dr. Binger?

A. Entirely.

Q. And how long have you specialized and confined your practice to that field? A. It would be hard to set an accurate date. I began to practice over twenty years ago; I have rather rapidly moved into the field of psychiatry, which is my major interest, and psychosomatic medicine, but I can't tell you exactly how many years I have been; but it approximates 20 years.

Q. Dr. Binger, in the course of his cross-examination Mr. Murphy asked you if you would during the time that you were under cross-examination by him not talk with or confer with counsel for the defense; do you recall [4009] that request? A. Very clearly.

Q. Prior to the time when your cross-examination started had you been requested by me not to talk with defense counsel not only during the cross-examination but until your redirect and recross was finished?

A. You told me that I would be not permitted to.

Q. Well, at least I thought it better not to. And has that been followed scrupulously, Dr. Binger?

A. Certainly.

Q. You have not talked with me or any counsel for the defense since your cross-examination started?

A. Except good morning, good afternoon.

Q. But as to what I am asking you on redirect, we have not discussed any of these points? A. We have not.

Q. I think you said that you met Mr. Alger Hiss on October 14, 1947. A. I think I said October 15.

Q. October 15? A. Yes.

Q. Will you explain the circumstances of that meeting?

MR. MURPHY: Your Honor, I don't know whether the circumstances are relevant. I have no objection to the conversation.

THE COURT: I think, Mr. Cross, you should confine it to the time, the place and the conversation.

MR. CROSS: That is all I meant by "circumstances."

Q. What was the occasion—I will put it that way—[4010] what was the occasion for the meeting?

A. My wife and I were invited to dine with Mr. and Mrs. Charles McKim Norton. There were four guests. Two of them were Mr. and Mrs. Hiss. It was on October 15, 1947. It was the first time I had ever to my knowledge seen either Mr. or Mrs. Hiss.

Q. Did you have some discussion with Mr. Hiss at that time? A. Yes, I did.

Q. Will you tell his Honor and the jury what the discussion was? I mean aside from conversations that you would naturally have. A. I recall a good deal of the conversation. How much do you want me to tell you?

Q. Was there some particular matter that you mentioned or discussed with Mr. Hiss? A. Yes, there was one matter.

Q. That was later followed by some meeting?

A. There was one matter. After dinner we walked up Park Avenue. I told Mr. Hiss about the International Congress on Mental Health about which he already knew. I told him that I was one of the executive committee; that we were charged with the difficult task of raising $160,000 to help finance the Congress because we had to pay for some of the delegates from the impoverished countries in Europe. I asked Mr. Hiss whether it was possible to get any money either from the Carnegie Peace Foundation or from the Carnegie Corporation. He [4011] said he did not know but he would look into the matter. That was the substance of that conversation.

Q. When was your next meeting with him and where?

A. I invited Mr. Hiss to come to my office for coffee and sandwiches. It was on November 7, 1947. Dr. Frank Fremont Smith, the Medical Director of the Josiah Macy Jr. Foundation and the Vice President of this International Congress was present too. We spoke with Mr. Hiss again about the possibility of getting money. We never got any

money either from the Carnegie Corporation or the Carnegie Peace Foundation, but he did give us some good leads who might contribute.

Q. Was that, up to that time, the only contacts you had had? A. Yes; never had seen him before.

Q. When first were you consulted by Mr. Hiss's counsel as a psychiatric expert, if you can give us the approximate time? A. Either late December or January of last year, December or January of last year. I don't remember the exact date.

Q. Was it before the grand jury hearing? Mr. Murphy spoke of the same grand jury hearing which was in December, I think December 15, 1948. A. Yes, it was before that.

Q. How soon before that? A. A matter of days or weeks, a matter of a few days. I have not that date [4012] accurately in mind, but it was obviously before the grand jury hearing because I know that to be true.

Q. But you had, I think, as you have testified, read the testimony, or parts of the testimony in the House Committee hearings and also the Baltimore depositions which had been taken up to that time?

A. Four volumes of the Baltimore depositions and what was made available to me of the House Committee.

Q. Now between November 7, 1947, when Mr. Hiss came to your office at your invitation and met with you and Dr. Fremont Smith, how many times and on what occasions had you met Mr. Hiss or Mrs. Hiss?

A. Never laid eyes on either of them.

Q. During that entire period? A. During that entire period. I might have to make an exception. It is possible that at a Parent Teachers Meeting of the Dalton School I might have seen Mrs. Hiss, but I never talked to her and I had no contact whatever with Mr. Hiss. I do not actually believe I actually saw Mrs. Hiss again.

Q. Have they ever been to your home for dinner?

A. No.

Q. Dr. Binger, in forming your opinion as to the mental condition of Mr. Chambers, and in considering his

admitted lies did you assume the following in connection with Mr. Chambers' application for securing [4013] the WPA job: that in October 1937 Chambers applied for a job with the National Research Project of the WPA; that in his application for this job Chambers made the following false statements: in outlining his education he deliberately omitted any reference to Columbia College, so that the Government would not be able to trace him there; he stated that he had taken summer courses at the University of Brussels in 1920, whereas he had never attended that University. In outlining his prior employment Chambers stated that in 1920-1921 he resided in Germany, Belgium and France for travel and study and that he was unemployed in 1922, whereas he was attending Columbia during this period. He stated that from 1923 to 1926 he was employed by Ruben Schemitz—

MR. MURPHY: May I interrupt. I submit we have been through this once before.

THE COURT: Haven't we, Mr. Cross?

MR. CROSS: I beg your pardon?

THE COURT: Has not this been gone into in direct examination and again on cross?

MR. CROSS: I just want to make sure that he, after cross-examination, says that his opinion is based upon the assumption of those facts to be true with reference to his admitted lies.

THE COURT: It seems to me that is mere [4014] repetition of what we had on direct examination.

MR. CROSS: It is, your Honor. I read this. There is no question about that.

THE COURT: Why have it again? Mr. Murphy will want to go into it again and we will have it endless times.

MR. CROSS: If that will save that I certainly won't ask it.

THE COURT: If you think it has not been covered—

MR. CROSS: It was covered, your Honor.

THE COURT: I think so, fully.

MR. CROSS: I read that in the direct.

Q. Dr. Binger, yesterday this question was asked you by Mr. Murphy as his last question on cross examination:

"Well, Doctor, taking everything into consideration that you have told us about on cross examination, do you tell us now, as a trained psychiatrist, that in your opinion Mr. Chambers is suffering from a disorder of character known as psychopathic personality? A. Most certainly."

What did you take into account in rendering or giving that opinion? A. I took into account the facts known to me about Mr. Chambers' life which I was asked to assume to be true in the hypothetical question and specifically a long history of lying—

[4015] MR. MURPHY: Now, your Honor, I don't think the witness can qualify it that way. If he is willing to say that he relied on the facts in the hypothetical question, I have no objection, and whatever else he relied on, but to have him tell the characterization, that I think is wrong.

Q. All I want, Doctor—you see, the question is, taking everything into consideration that you have been told, that you have told us about on cross examination, do you tell us now as a trained psychiatrist that in your opinion Mr. Chambers is suffering from a disorder of character known as psychopathic personality. Now, all I want, Dr. Binger, is to know whether you included the assumptions that you were asked to make in the hypothetical question, whether you included your observations of Mr. Chambers both at the first trial and at this trial, and his writings and translations that you told us about, in addition to what was referred to here as having been told on cross examination?

A. I did.

MR. CROSS: Mr. Murphy, may I have the mental hygiene book that you showed to Dr. Binger?

(Mr. Murphy hands book to Mr. Cross.)

Q. Now, Doctor, this book I show you to which you made reference is entitled what? A. It says on the cover

[4016] "State of New York, Department of Mental Hygiene, Mental Hygiene Law, and General Orders."

Q. Now, the first 133 pages of that book tell us what? If you will look on the first page, Dr. Binger, I think it will tell you.

MR. MURPHY: Why don't you offer the book? It is a little awkward—

MR. CROSS: I will.

A. With the Mental Hygiene Law.

MR. CROSS: May I offer the book.

May I also offer your book.

(Marked Defendant's Exhibit 6 x H.)

MR. CROSS: Now I would like to have marked as Defendant's Exhibit 6 x H-1 the book that Mr. Murphy showed Dr. Binger on cross examination.

(Marked Defendant's Exhibit 6 x H-1.)

MR. CROSS: Ladies and gentlemen of the jury, Defendant's Exhibit 6 x H is entitled "New York State, Department of Mental Hygiene, Mental Hygiene Law, and General Orders. State Hospital Press, Utica, New York."

On the second page is an explanatory note reading as follows: "This compilation of Legislative Acts and Official Regulations is available in two combinations. Set A contains the Mental Hygiene Law, pages 1 to 133. The laws relating to mental hygiene, [4017] pages 135 to 435. The General Orders of the Department of Mental Hygiene, pages 437 to 601 and their indexes.

"Set B contains only Mental Hygiene Law and the General Orders of the Department of Mental Hygiene and their indexes.

"In order to obviate complete reprinting every year, both sets are issued in looseleaf form, supplemental pages showing changes, and new material will be issued annually accompanied by instructions for inserting the pages."

Then the first 133 pages contain the Mental Hygiene Law. This book does not contain pages 135 to 435, being the laws relating to mental hygiene. It does contain pages beginning with 439 and running to 601. Those are entitled "General Orders, New York State Department, Mental

Hygiene. Rules and Regulations relating to the management of the State hospitals, State schools, Craig Colony, and licensed institutions, promulgated by the Commissioner of Mental Hygiene pursuant to Article 2, Section 7 of the Mental Hygiene Law.''

Then there is the foreword to the General Orders, in which it is stated that ''Section 7, subdivision 5, of the Mental Hygiene Law provides that the Commissioner may adopt such rules and regulations governing the management of institutions, public and private, authorized [4018] by law to receive and care for the mentally ill, mentally defective and epileptic, as he may deem necessary to carry out the provisions of the Mental Hygiene Law to insure the comfort and promote the welfare of the patient.''

Then Section 12, subdivision 4, of the Mental Hygiene Law provides that the Commissioner from time to time—shall from time to time establish by laws, rules and regulations, and so on.

Then the following revised General Orders were submitted and adopted at the bi-monthly conference of directors held October 1947 to supersede General Orders theretofore issued which are repealed. And, General Order No. 1, General Orders of the Department of Mental Hygiene are official regulations and issued pursuant to Article 2, Sections 7 and 12 of the Mental Hygiene Law and bearing consecutive numbers.

Then Dr. Binger referred to the classifications. On page 599 there is this heading: ''Condensed Form of Classification of Mental Diseases as Revised by the American Psychiatric Association May 1942, Effective in New York State Department of Mental Hygiene July 1, 1943.'' And then I am omitting classifications which appear on pages 599-600. And then, coming to the classification on 601 with the heading ''Without Mental [4019] Disorders (psychosis)'' and then there is ''Epilepsy, alcoholism, drug addiction, mental deficiency, disorders of personality due to edemic encephalitis.'' And the next, ''psychopathic personality with pathological sexuality, with pathological emotional, with asocial and amoral trends and mixed types.''

The book that Dr. Binger was handed and in which he was asked to find the Orders—

MR. MURPHY: No. I asked, was that the Mental Hygiene Law he referred to.

MR. CROSS: You also asked him to find the Orders he had referred to, Mr. Murphy, and I will leave it to the jury as to just what the question was.

This book contains—and the paging I think is different—the Consolidated Laws of New York Annotated. There are 152 pages of the law, and then the indexes, and then the pocket edition to bring up to date the Consolidated Laws. It has nothing about General Orders or the other parts that are referred to in the book that is marked Defendant's Exhibit 6 x H.

BY MR. CROSS:

Q. Is that the classification you referred to in your direct testimony, Dr. Binger? A. Yes, sir.

Q. And this psychopathic personality is and has been recognized for some time by the State of New York, [4020] Mental Hygiene Department? A. To the best of my knowledge, yes.

Q. Now, when you were testifying with reference to your observation about Mr. Chambers at the first trial did you give this answer—I think Mr. Murphy read a part of it and only a part of it—at page 3686; this is your testimony on direct:

"Q. Will you tell us what they were? A. Well, he sat in this chair or in a similar one, and he apparently had very little relationship"—

MR. MURPHY: Now, your Honor, I object to Mr. Cross reading something to the witness unless he proposes to have the witness change his testimony. I do not think it is proper to read the witness his testimony unless Mr. Cross is going to ask him whether he meant that or whether he said it. But merely to refresh his recollection does not seem the proper way of doing it.

MR. CROSS: If your Honor please, Mr. Murphy read only a part of this answer, and I said to Mr. Murphy at the

time, "Aren't you going to read the balance?" I submit that I have the right to read the whole answer.

MR. MURPHY: All right, I will withdraw it.

MR. CROSS: (Continuing) "A. Well, he sat in this chair or in a similar one, and he apparently had very little relationship with the inquirer. He frequently [4021] looked up at the ceiling as if trying to recall something that he had previously said. He had an extraordinary lack of precision about events. In the first trial his mode of reply was usually 'it must have been—it would have been,' or 'it should have been' thus and so."

And then Mr. Murphy said: "Are you talking about Chambers? I didn't understand. Are you talking about Mr. Chambers or somebody else?"

And the witness said: "I am talking about Mr. Chambers. 'it must have been—it should have been,' or 'would have been' thus and so; and Judge Kaufman in several instances reprimanded him—

"Mr. Murphy: Now—

"Q. Now, please do not refer to Judge Kaufman; just what Mr. Chambers may have said that you observed."

Q. Now, included in your answer as to lack of precision in testifying, did you confine it solely to the exact words that you used or did you include other words such as "I believe" and "it seems" and "would be"?

MR. MURPHY: If your Honor please, that is a leading question.

THE COURT: That is leading, Mr. Cross.

Q. What did you mean by "lack of precision" in his answers?

MR. MURPHY: Your Honor, I submit that the witness [4022] has already said on two separate occasions exactly what he said.

THE COURT: Yes. That objection is sustained, Mr. Cross.

MR. CROSS: Well, Mr. Murphy has made a statement as to what his count shows, and I think I should be permitted without calling a witness to state what our count

shows with reference to the testimony of Mr. Chambers at the first trial.

THE COURT: You are quite right, I think.

MR. CROSS: In the first place, the record on page 3918 at this trial, it says: "I find, Doctor, that those phrases that you have told us, 'must have been,' 'should have been,' 'would have been,' in 1717 pages of testimony come to a total of ten, ten times."

And then in the next paragraph there is a reference to 1717. I am sure that that is a stenographic error, and I think it must have been intended to be 717; and may we understand that that should be corrected, Mr. Murphy?

MR. MURPHY: Yes, that is correct.

MR. CROSS: Now, the number—as part of that a great many pages deal with colloquy of counsel—as we compute it, is 473 pages for the first trial, and there are 198 instances of answers in which Mr. Chambers said [4023] "I believe—it seems—it would be—probably—most likely—I would think—must have been—I presume—it may have been—I should think—I suppose—it would have been—I would say"—and "perhaps."

BY MR. CROSS:

Q. Now, Dr. Binger, in the assumptions that Mr. Murphy in cross examination asked you to make I think he took as an illustration the parent telling the child that there is a Santa Claus, about the stork, and the boy telling the father that there are five when there are actually six. Now, are those types of lies comparable to the admitted lies that you assumed for Whittaker Chambers?

MR. MURPHY: Your Honor, now I don't think the witness is allowed to make a qualitative analysis of the lies. I have no objection to Mr. Cross asking whether the doctor feels that those are lies which a psychiatrist would consider, but asking him to compare—

THE COURT: I should think that was for the jury, Mr. Cross.

MR. CROSS: Well, I thought that this was gone into on cross—I would have thought so too, but I thought that Mr. Murphy inquired about the character of the lies and

in comparison with what Dr. Binger had testified to. However, I shan't labor the point. I simply asked him because I thought it had been asked by Mr. Murphy on cross examination.

[4024] Q. I think perhaps you have covered this in the question I asked you about Mr. Murphy's last question: from the facts that you have been asked to assume and your observation and the assumptions that you have been asked to make by Mr. Murphy here, is it your considered opinion that Whittaker Chambers is a psychopathic personality? A. It is.

MR. CROSS: That is all.

Recross Examination by Mr. Murphy:

Q. Doctor, I just have a few questions: Were you able to remember the number of times that you were refused certification because of the lack of experience? Could you remember whether that was once or twice?

A. I think you are confusing the American Psychiatric Association with certification. I was never refused certification.

Q. Well, perhaps I am confusing something, Doctor. Did you say that you were refused admission as a member, perhaps? Was that it? A. Of what?

Q. Before you were certified in the American Psychiatric Association. You could not recall whether you were refused once or twice. I was just—

A. Certification has nothing to do with the American Psychiatric Association. If you want to know the facts about the American Psychiatric Association—

Q. No, Doctor, what I wanted to find out was the number of times you were refused admission as a member. Perhaps I can get the exact question. You do not know what I am referring to? A. I do, perfectly.

Q. How many times were you refused a membership because of your lack of experience in psychiatry?

A. Well, if you ask me a self-damaging question which is not accurate I do not feel I have to answer. If you ask me an accurate question I will be delighted to tell you the truth.

Q. By the way, when you were working in these clinics, as you said, for about three years, that was not a full-time job, was it? A. No.

Q. Now I was referring to membership in the American Psychiatric Association. Did you apply for membership to that Association more than once? A. Twice.

Q. And you were admitted once, were you?

A. You could not be admitted twice.

Q. But you were not admitted both times, were you? Would you answer yes or no, Doctor? A. No, I won't because you are trying to mislead me, unless the Judge instructs me.

THE COURT: I think you could answer that.

A. I was admitted once; the second time, not the first time.

[4026] Q. Thank you very much. When you were certified as an examiner by the Mental Hygiene Board you were certified pursuant to the regulations that they have in the Mental Hygiene Law on questions of qualifications that they set up. Do you recall what the qualifications were? A. I honestly do not.

Q. Supposing I read from Section 27 and it says:

"The Board shall give certificates as qualified psychiatrists to persons fulfilling the conditions of this subsection. No person shall receive a certificate unless (1) he is a physician duly licensed to practice in the State of New York and has had at least five years' experience in actual practice;"—

so I take it you qualified under the first part since you got out of medical school in 1914 and all you had to have was five years experience as a physician, so that would be up until 1919 anyway.

And "either (a) has had two years' full-time practice since January 1st Nineteen Hundred Twenty in the care and treatment of persons suffering from mental diseases or mental defects in an institution providing for the care of such persons and having accommodations for at least fifty such patients, or"— [4027] did you qualify under that

first part that I have just read now? A. No, certainly not.

Q. —"or (b) has devoted the five years immediately prior to filing his application for certification to a practice confined wholly or substantially to the care and treatment of persons suffering from nervous and mental diseases or mental defects."

Did you qualify under that? A. Certainly.

Q. So that you did not qualify under the first, which says that you had to have this full-time practice in an institution? A. You do not have to qualify under both.

Q. But you qualified under the second? A. Under the second.

Q. Now, Doctor, you said you were consulted by the defense counsel in this case you thought around December or January, and then I think you said it had to be December because that was the grand jury. A. It was December.

Q. Who was it, Doctor, that consulted you?

A. Well, Mr. Rosenwald called me first.

Q. Mr. Rosenwald called you first? A. Yes.

Q. And who called you the second time? A. You mean who telephoned me the second time or what?

Q. Well, I don't know. You said he called you. Mr. Rosenwald called you so that was a telephone call.

A. Yes, he came to my office and talked to me about [4028] it and then I was asked to come down and talk to members of the firm.

Q. Of what firm was that? A. Plimpton, Debevoise & McLean. I spoke to Mr. McLean a great deal and Mr. Stryker too.

Q. Did you speak to any other lawyers in connection with this being retained in this case? A. Having to do with the case?

Q. Yes. A. No.

Q. It was just that one firm that you spoke with, Plimpton, Debevoise & McLean? A. I have legal friends whom I spoke to, but from the point of view of the defense of this case only the firm.

Q. Some of those legal friends, were they people who talked to you before Mr. Rosenwald talked to you? A. No.

Q. Can we say, Doctor, that Mr. Rosenwald was the first attorney who talked to you about testifying in this case? A. Absolutely, yes.

Q. And after Mr. Rosenwald talked to you and you consulted with Mr. McLean and his firm, did you have occasion to talk to any other lawyers about appearing in the case? A. Yes.

Q. What other lawyers? A. I went to see my wife's brother-in-law, Lloyd Garrison—my wife's brother; my [4029] brother-in-law.

Q. Did you talk to him about appearing in the case? A. That is right. I wanted some legal protection for myself. I did not know what this all might mean for me.

Q. Did you talk to anybody else in that firm? A. Yes.

Q. Who else? A. Mr. Louis Weiss.

Q. Was that prior to December, 1948; that is, prior to the time when you were willing to testify in the grand jury? A. I just told you it was after Mr. Rosenwald had talked to me.

Q. Yes, but I was wondering whether it was prior to the time, December 15th, the day you were willing to testify in the grand jury, did you talk to Mr. Garrison or Mr. Weiss? A. That is between the time Mr. Rosenwald talked to me and prior to the time I—I should not be surprised. I don't remember that. I may say that my brother-in-law referred me to his partner, Mr. Weiss, because he did not want to do it himself because he was so closely related.

Q. You had known Mr. Weiss before that, had you? A. Oh yes, I had.

MR. MURPHY: Thank you, Doctor.

Redirect Examination by Mr. Cross:

Q. Doctor, Mr. Murphy only read two of the requirements of Section 27 about certification. I will read [4030] the other two.

MR. MURPHY: He said he qualified under 1, so I stopped. He said that was the section he qualified under.

MR. CROSS: I still want to read to the jury the other two qualifications:

"(c) has had three years' experience in a clinic approved by the Board devoted to the diagnosis and care of mental disorders and whose competency has been certified by two psychiatrists duly qualified pursuant to the provisions of this act; and

"(3) shall fulfill such additional requirements as may be established by the Board from time to time to insure the competency of such person to act as a psychiatrist in any action or proceeding in which by any provisions of law the services of a psychiatrist holding a certificate from the Board are required."

Q. Did you furnish all the additional requirements that the Board asked for before certification, Dr. Binger?

A. I believe I furnished two letters. Yes, I know I did, from other psychiatrists.

Q. You were asked questions by Mr. Murphy and you said that you would be glad to explain the circumstances with reference to your application as a member of the American Psychiatric Association. Will you now tell us, Dr. Binger.

[4031] A. Yes. There was and perhaps still is, a regulation in the American Psychiatric Association that one of the requirements for membership is to have had a year's internship or residency in a mental hospital. They make frequent exceptions to that. A good many members I know are members who have not had such. They scrutinize a person with extra care when he has not had. I applied once and was advised to defer my application and the next year I applied and was elected, and then within a year I was made a Fellow, and there are at present of some 5000 total membership about 1000 Fellows.

MR. CROSS: That is all, thank you.

MR. MURPHY: Thank you.

THE WITNESS: May I be excused?

THE COURT: Yes.

THE WITNESS: May I stay in the courtroom?

THE COURT: Dr. Binger is asking the Court whether he may sit in the courtroom. Of course I have no objection, but all witnesses have been excused by agreement between counsel. I suppose if Dr. Binger is not to be called again I see no reason for his not being in the courtroom.

MR. CROSS: I had understood witnesses both for the Government and also the defense after they testified some of them had sat in the courtroom.

[4032] THE COURT: I take it there is no objection.

MR. MURPHY: I have no objection.

THE COURT: That is the answer.

(Witness excused.)

HENRY A. MURRAY, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination by Mr. Cross:

Q. Where do you reside, Dr. Murray?

A. I reside in Boston, Massachusetts.

Q. Where were you born? A. New York City, sir.

Q. Will you tell us briefly what your educational and professional training has been, and also your professional experience?

A. I graduated from Harvard in 1915 and then went to the College of Physicians and Surgeons here in this city—Columbia. I received my medical degree in 1919.

For a year I did some research work on chemistry of the blood, got an M.A. degree for that, after which I went to the Presbyterian Hospital in this City, now called the Medical Center. And I served an internship then for two years. That brought me to 1922.

At that time I received an appointment at the Rockefeller Institute for Medical Research, spent four years there in research. One of those years was [4033] spent in Europe, partly at the University of Cambridge, England, and some of it on the Continent. I spent some time with Dr. Jung in Zurich and other time in Cambridge. A year later I received a degree of Ph. D. from Cambridge,

England, on account of the work I did there and at the Rockefeller Institute.

In 1926 I was asked to go to Harvard and work as the assistant of Dr. Morton Prince who had just started a new clinic, so-called Harvard Psychological Clinic. At that time Dr. Morton Prince was the most distinguished experimental psychiatrist in this country, if not in the world. And I spent three years as his assistant in Cambridge, there, and derived a great deal of benefit from that experience.

At that time psychoanalysis was becoming established, and I wanted to add that to my equipment, so I spent three years training in psychoanalysis.

Q. Where? A. That was also in Boston, right there.

And in 1933 I was certified to practice psychoanalysis.

To go back to 1929, when Dr. Prince resigned, I became Director of the Psychological Clinic and remained Director until the last war. That is, 14 years.

During that time I did some practice in psychotherapy, some teaching as assistant and associate [4034] professor of abnormal dynamic psychology, but also, and mostly, research work; and this research work had to do with devising various means and techniques for sizing up people, for determining certain dispositions in their character, normal people as well as abnormal people.

Q. Were you at some time a member of the Medical Corps attached to the OSS? A. When the war came I became a member of the Medical Corps and was assigned to the Office of Strategic Services as a major, and lieutenant colonel later.

Q. What was your work with the OSS?

A. I was in charge of what was called the Assessment Staff, and there were 53 members of it all told before the war was over. The function of the Assessment Staff was to test recruits that were sent to Washington and picked out all over the country, test them in regard to certain functions that they were expected to play.

There were a great many different roles that were required in the OSS, mostly agents that would drop behind the lines in Burma and China and France and else-

where, but also propagandists and administrators and pilots, and every variety. There were over 50 vocational heads. And our function was to decide whether these men were suitable for the positions that they had been recruited to fulfill.

[4035] Q. These were agents in occupied territories that the OSS dropped behind the lines?

A. These were recruits, and our function was to test whether they were suitable to be dropped behind the lines, to be either parachutists, or in some cases going on a submarine, in France, or Burma, China, were the main places, but there were others. They were everywhere, all over the world.

Q. Did you follow up these people who attended these Assessment schools after they had been behind the lines, to check on them?

A. Yes, sir, I went to England twice, and France, and around the world to China, and made a thorough study of how the predictions came out. About 3000 men went through these Assessment schools, and there were several of them, several Assessment schools. And then I visited the various countries. And it took great pains to find out how they have turned out, how many mistakes we had made, etc., etc.

Q. Are you an M.D., Dr. Murray? A. Yes, sir.

Q. You received your M.D. from Columbia University? A. Yes, sir.

Q. You mentioned your Ph. D. that was given you in Cambridge, England. In what specialized field was that? A. That was in chemistry, rather biological [4036] chemistry. It is part of physiology.

Q. In 1947 were you asked to write a book for the United States Government?

A. It was in 1945, sir, immediately after the atomic bomb. I was in China at the time, and General Donovan came along and he brought me back on his plane and suggested that a book should be written describing our methods. And I spent a year and a half, with the help of other people, writing that book, which was published a year after that, called "Assessment of Men."

Q. Were you in charge of that entire staff in the writing of this book? A. Yes, sir.

Q. What is the name of the book?

A. "Assessment of Men."

[4037] Q. In addition to your work that you have told us about prior to 1947, I think you mentioned the fact that you also practiced. In what field or fields did you practice during the period, say, until you went to the O.S.S.? A. Psychotherapy. We took at the clinic a certain number of very special patients whom we studied very intensely. We took not anyone who came along; we took the most difficult cases, the cases that would require long months of study.

Q. Did you receive some citation or award for your work with the O.S.S., Dr. Murray? A. Yes, sir.

Q. What was it? A. Legion of Merit.

Q. What did you have to do with these training schools for recruits? Did you have to do with the first one that was started? A. Yes, sir.

Q. Were you in charge of the first school? A. Not at the time it was started, no, sir.

Q. Were you later put in charge? A. Yes.

Q. And before you were put in charge did you go to England and make some special study over there? A. We started it, and after we got it going I was sent to England to see whether there was something they had which we did not have.

Q. After you came back were you put in charge of the first school that was established? A. Yes, sir.

[4038] Q. How long did you continue? A. Well, I was in charge of the works, as it were, for the rest of the war, but my function was to move to a new place and start a new school. I went to California in June and started one on the beach there for the men that were going to operate in the Pacific; and then I was sent to France with the idea that we were going to have units in France to test the French agents, but that plan was given up.

Then I was sent to China, and I set up a scheme there, with the help of some Chinese psychologists, to test Chinese recruits that we were training, that is, the O.S.S. were

training, for paratroopers to drop behind the lines in Japanese-occupied countries, and we went around and gathered in 3000 Chinese and put them through all kinds of tests.

Q. I think you told us—I am not sure but I want to make certain the record shows it—will you tell his Honor and the jury how many recruits went through these schools, these assessment schools that you have described?

A. About 3000.

Q. Does that include the Chinese school? A. The what, sir?

Q. Does that include the Chinese school? A. No; there were a lot more there.

Q. Well now, just tell us, Doctor, whether in the O.S.S. [4039] system of the assessment of men for these recruits you used among other methods projective techniques or tests?

A. Yes, sir.

Q. What are projective techniques or tests? A. Well, they are tests to obtain the kind of information that you can't get by direct question and answer. They all have the same general nature or form. You present the patient or the subject or the recruit with some kind of stimulus. Sometimes it is a word; sometimes it is a sound; sometimes it is a picture; sometimes it is some indefinite kind of—in one case an ink blot—and you ask the patient or the subject to respond to them in various ways. Sometimes you ask for a series of words as fast as they can say them; and sometimes, the other extreme, ask them to make up a story, a five-minute story.

Now, they are talking, presumably, about this picture that you have shown them or this stimulus, but actually if you have to talk very quickly about these things you have to reveal certain parts of yourself; and so, in a way, we would regard these projective techniques like X-rays, that you see something that you could not see on the surface in a direct interview method.

Q. These projective tests were used in testing the recruits as to their availability for the work they were to be assigned? A. Yes, sir. They are used everywhere.

[4040] Q. Well, what do you mean by everywhere? A. Well, all the government services experimented with various kinds of projective techniques, and all through the war in all the services. Some of them were found to be more successful than others. One of the difficulties is that they are time-consuming. Some of the tests have to be given to individuals one at a time, and that takes time, and under most systems of selection you can't afford that amount of time.

Q. Well, was the purpose of this assessment course that was given to recruits to eliminate those that in the opinion of members of the assessment staff were not equipped mentally or emotionally? A. Yes, sir. Out of the 3000 about 20 per cent were eliminated.

Q. Have you personally devised any of these projective techniques? A. Several.

Q. Will you tell us one and describe it? A. Well, there is one that is called the TAT, because its real name is quite a mouthful. It is the Thematic Apperception Test. It means theme, and the object is to get themes, as it were, from the subject. The Thematic Apperception Test consists of 20 dramatic pictures which were chosen from many thousand as being provocative to the imagination. These 20 pictures are divided into two parts of ten each, and the test is divided into two parts of an hour each, [4041] one hour one day and one hour the next day.

On the first day the patient or subject or recruit is shown the picture every five minutes and asked to tell a story for which that picture might be used as an illustration, and tell what the characters in the pictures are feeling, what they are thinking, what the outcome is going to be, and so forth. So at the end we get 20 stories that were made up about these pictures that have been specially selected and represent certain critical kinds of events.

Q. Dr. Murray, are there certain types of information that your tests are designed to elicit or to determine?

A. Yes, sir.

Q. Will you tell us, if you can, what that grouping is?

A. Well, we are accustomed to divide information that we can obtain from a patient or subject into the

information that the man or woman knows and is willing to tell, and you can obtain that in an interview; and what he knows and is not willing to tell; and what he does not know and therefore can't tell. And it is the last two classes, namely what he knows and won't tell and what he does not know because it is repressed and unconscious, and therefore can't tell that the projective tests are designed to evoke; and we have often proved that that is possible.

Q. The direct interview would only reach the first [4042] classification? A. Yes, sir.

Q. Now, aside from this book which you helped in writing for the Government, "Assessment of Men," have you written any other books? A. Well, the work that we did at the clinic over the years was published in 1938, I think called "Explorations in Personality," and more recently Dr. Kluckhohn and myself—he is Professor of Anthropology at Harvard—have edited a book called "Personality in Nature, Society and Culture."

Q. Dr. Murray, yesterday when Dr. Binger was on the stand Mr. Murphy read an excerpt from a book that he said was your book. I have finally traced the part read. It appears in "Explorations in Personality," Harvard Psychological Clinic, by Dr. Henry A. Murray, M.D. Is that one of the books that you wrote? A. Yes.

Q. This appears in Chapter 8 beginning on page 739. I will ask you, Dr. Murray, what that statement refers to—

MR. ROSENWALD: I think that is not the correct page.

Q. Mr. Rosenwald says that he feels that the place I indicated is not the right place, but it begins "Our Catholic subjects are relatively happy, free from neurotic symptoms" and so on.

Do you recall that statement in your conclusions? A. I have not referred to that statement for ten years, [4043] sir, but I am quite sure I wrote that.

Q. Well, what did that have reference to? A. That had reference to the 51 Harvard students that we studied. Of those 51 Harvard students we had a few representing

each of the different denominations, and our findings were in conformity with that statement. It wasn't a generalization over the world.

Q. No, but was that the conclusions reached from 51 tests made at the Harvard Psychological Clinic? A. 40 hours of studying 51 subjects. You have only read me the first sentence or two. I am not quite sure what that statement was.

Q. I will read this— A. Excuse me, sir. You say this was in the last chapter? You don't know what page? Do you know what page?

MR. CROSS: Mr. Murphy, do you know what page?
MR. MURPHY: We can find it for you.
MR. RYAN: Is this a different edition.
THE WITNESS: They are all the same.

Q. I will show you the reference in the transcript at page 3898, Dr. Murray, and see if that helps (handing).

THE COURT: I think we might take our usual recess now, and in the meanwhile, Dr. Murray, you might try to find it.

(Short recess.)

[4044] Q. Dr. Murray, the quotation that Mr. Murphy read we located on the page that I had opened, at page 736, the difficulty being in locating it was that it was at the end of the paragraph rather than the beginning. You have in mind the statement now? You have read it during the recess, have you not, Dr. Murray?

A. Yes, sir.

Q. Was that the conclusions with reference to the 51 cases that had been tested in the psychological clinic?

A. Yes, sir. Those are conclusions that came out of the facts that we had in our possession.

Q. Those are not views of yours at all but merely the recording of what the investigation or the examination of the 51 patients showed? A. And more than that, sir. No statement in that book was published without having been passed by the other members of the staff, and we had a large staff and they were of all denominations. And

that statement has been OK'd as representative of the truth as we saw it on the basis of the 51 subjects by a staff of all denominations.

Q. And did you make some comments also about the participants as to what you found with respect to them? A. Yes, sir.

Q. To what extent is the TAT test that you devised used? To what extent has it been used?

[4045] A. Well, if you can judge by a number of copies that have been sold, over 12,000, I have received letters from doctors, psychiatrists and psychologists from seven or eight different countries, Europe and South America, and so forth. As far as I know it is fairly generally used.

Q. When you speak of copies, is the test printed in some book or manual? A. It is a series of pictures, 20 pictures with a manual giving the directions, and when you once have a set you can use it a thousand times.

Q. And these, along with other projected tests were used in the Assessment schools? A. Yes, sir.

Q. Will you tell us, Doctor, whether you are a member of any professional associations, and if so what?

A. I am a member of the American—I am a Fellow of the American Psychological Association and the American Psychoanalytic Association, Academy of Arts and Sciences, American Academy of Arts and Sciences, and several others.

Q. You have told us that you are an M.D. In what special field do you work? A. I would call myself a psychologist, sir.

Q. Are you also a psychiatrist? A. I would have a right to call myself that if I wanted to without a great deal of objection.

Q. But you call yourself a psychologist?

A. Yes, sir.

Q. What is the relationship, in either the diagnosis or in the treatment of mental disorders between psychiatry and psychology? A. Ordinarily the two work together in cooperation. It is a complementary relationship. A psychologist, as a rule, applies a number of differ-

ent tests and perhaps a short interview and gets a little information perhaps on past history and comes to his conclusions as to diagnosis. Sometimes he comes to the conclusion on the basis of only one test; sometimes several tests, and then those results are handed to the psychiatrist and the psychiatrist then sees the patient, interviews the patient, and gets the past history and comes to his conclusion. If there are doubts in a psychiatrist's mind he will send the patient back to the psychologist and say, "Would you do a few more tests?" X, Y, Z, and so forth and so forth. So they work together in a complementary way to arrive at the best diagnosis and understanding of the case.

Q. And is the work at the Harvard Psychological Clinic work that is conducted at times at the request of psychiatrists to study patients or study reports?

A. We do that kind of thing. That is not our real function. It is—

[4047] Q. What is the real function? A. We have done it even for the Department of Hygiene of Harvard, for example, where the students go if they have troubles. They send some of the students over to us and we study them and then make a report. Our concerns are primarily research, developing new methods for finding things which are not easily found by conventional methods, and I mean particularly interviews.

Q. Well, what relation, for instance, would your TAT test have to what perhaps some of us have heard of, the Rorschach test?

A. Well, those two are often given together. They give different kinds of results. The Rorschach gives a certain kind of information and it is used more widely than any other tests. The TAT gives another kind of information and putting them together you usually get some quite valuable and significant data about the patient that is helpful to the psychiatrist.

[4048] Q. What about the Bellevue-Wechsler test? Is that a psychological test or an intelligence test? A. That is an excellent test. It is a test of intelligence, and also as it tests some of the higher functions of intelligence it gets over a little bit into the emotional field. You can

make a few inferences from the Bellevue-Wechsler. It is a very good test for individual administration.

Q. Was the method of selecting recruits and the description of the Assessment Method written up at one time in Fortune Magazine? A. Yes.

Q. March 1946? A. Yes, sir.

Q. Was it also written up by General Donovan in the Yale Law Review as recently as July 1949? A. Well, I was shown a paragraph in an article by the General in the Yale Review with kindly reference to it.

Q. Well, this had to do with reference to the assessment work in the O.S.S.? A. Yes, sir. He was suggesting it to the Government as a means of testing loyalty that would be more accurate and thorough than methods that are now used.

Q. When you say you were shown a paragraph with some personal reference, does that have reference to your participation in the work of the O.S.S. and the writing of the "Assessment of Men"? A. Yes. The actual history [4049] is that the General called me up a year ago and asked me to write—

MR. MURPHY: I don't think we should have the conversation.

MR. CROSS: I don't think so either.

Q. But, at any rate, this matter has been written up in Fortune and in the Yale Law Review with reference to the Assessment Method and recommendations were made as to its use in various Government agencies; is that true?

A. Yes, sir.

Q. At some time were you asked to make an analysis of Hitler by the Government? A. Yes.

Q. When was that? A. 1943, in the spring of 1943.

Q. And what were you furnished to make your diagnosis?

A. The Government had collected summaries, abstracts of all the articles that they had been able to get hold of on Hitler in all languages, and also an account of interviews with everybody in this country that had ever known Hitler that they could get hold of; and there were

a thousand typewritten pages of this interview material and these summaries of articles; and I was asked with others, two other psychiatrists—we were asked to examine this material and make what inferences we could as to his personality and make some predictions as to whether he would be likely to stand up under the strain of war for [4050] many more years, et cetera, et cetera.

Q. How many other psychiatrists were assigned to the job besides yourself? A. There were two others, sir. We did it independently and we never met, and I think I could only name one of them, but there were two; and then the work was brought together.

Q. When was it completed? A. Oh, immediately after. It took about a month.

Q. Were you furnished with some writings of Hitler?

A. The writings that were available, the various editions of Mein Kampf, and his speeches; and actually I found more useful material from Mein Kampf and from the speeches and the detailed careful thorough analysis of those writings than I did from all the interviews put together.

Q. Can these projective techniques be used in analyzing writings of an individual, such as poems and stories? A. The same methods that you use to analyze the stories that you get through projective techniques can be applied to the spontaneous writings of a creative person. In fact, if all patients, all subjects, were creative and had written, had written stories and poems, and so forth, we would not have to have any projective tests except for certain very special purposes. The writings of a man are his spontaneous, you might say, secretions of his brain. The projective tests, or many of them, were devised so as to [4051] make everybody to a certain extent creative, and have material of this kind from everybody.

Q. It is where a person has not written himself, then you use the projective technique so as to draw out the images or the thinking or imagination of the individual?

A. To a certain extent everyone becomes momentarily an improviser if not a creator.

Q. Now, will you tell us, Dr. Murray—you have spoken of the projective tests. In making a diagnosis what method or methods does a psychologist use? A. He uses all the tests that are available or that he is equipped to use, and on the basis of these various tests—sometimes it is only one test; sometimes, two, three, four, five or six; he analyzes them in the way that is appropriate for the test; each test has its own mode of analysis; and on the basis of those analyses of the special tests he comes to a conclusion just the way a doctor does on the basis of physical signs and symptoms. He makes his diagnosis on the total relationship of the facts obtained by all his methods.

Q. Have you been requested or asked, Dr. Murray, to deliver an address at the next annual meeting of the American Psychiatric Association? A. Yes.

Q. On what subject? A. Projective techniques.

Q. Have you accepted? A. Tentatively. Yes, I have.

Q. Were you present, Dr. Murray, in the courtroom—[4052] I will have to stop and think now—on Friday afternoon—no, Thursday afternoon, when I asked a hypothetical question of Dr. Binger, and then I asked you to withdraw from the courtroom? A. I heard the hypothetical question, yes, sir.

Q. And after you were asked to withdraw from the courtroom you have not been in the courtroom since then?

A. No, sir.

Q. And you were informed that your presence for that purpose was with Judge Goddard's permission and Mr. Murphy's permission? A. Yes.

Q. And have you been furnished with a typewritten copy of that hypothetical question? A. Yes, sir.

Q. Have you read it over a number of times? A. Yes, I have.

Q. And from time to time have you made notes with reference to the hypothetical question and your testimony here? A. Yes, I have.

Q. Now, have you read certain poems and articles

which you were informed were written by Mr. Whittaker Chambers?

A. Yes, sir.

Q. Will you name those which you have read and which you understand have been marked and are before the jury?

A. I read six poems: "Quolhog" in 1924, written in 1924—

MR. MURPHY: "Quog Hole," I think.

[4053] A. (Continuing) "Quog Hole," excuse me, December 31, 1924; two poems published in the Nation unnamed, one and two, April 1926; "Lothrop Montana" in June of the same year; "Tandaradei"—I am not sure how to pronounce that—"October 21, 1926."

Q. Mr. Murphy or Mr. Ryan corrected you on the pronunciation of "Quog Hole"? A. Quite right, sir.

Q. How is the poem spelled that you read? A. Well, it is—

Q. How is it spelled? A. Q-u-o-g—in the dictionary it is Q-u-a-g, but I don't know.

Q. At any rate, you still think your pronunciation is right? A. No, sir, I made a mistake and Mr. Murphy was right.

Q. Now, are there any other writings which you have read of Mr. Chambers? A. I read some prose works: "The Damn Fool;" "A Play for Puppets"; "In memory of R. G." and "The Devil," and five book reviews in the Mercury, and one or two Time Magazine articles that were said to have been written by him—I believe that is true—and some translations. "Class Reunion," "Scorpion," "Samson and Delilah" and a few others.

Q. Well, "Samson and Delilah" was not— A. That is not here, no.

Q. That is not in the case, but "Scorpion" and "Class [4054] Reunion" are exhibits. Now, Dr. Murray, assuming the facts stated in the question which I read to Dr. Binger and which you heard read while you were in court, a copy of which you had, to be true, and taking into account Mr. Chambers' writings and translations which you have just enumerated, have you, as a psychologist, an opinion within

the bounds of reasonable certainly as to the mental condition of Whittaker Chambers?

MR. MURPHY: Now, your Honor, before the doctor answers that I want to note on the record my objection. This gentleman is not qualified as a psychiatrist, as I understand his testimony. He is a doctor who has specialized in psychology. There is no testimony that he has ever seen Mr. Chambers; and, your Honor, I think we are going far afield in my humble judgment if you permit a psychologist to testify on the mental condition of an alleged witness. It seems that we have spent a great deal of time with a man qualified as a psychiatrist, and this would only add time, I think, to the case and nothing more. A psychologist, it seems to me, is not qualified to talk about mental diseases as such, and it is because of that, and the fact that he has not seen Mr. Chambers, that I wish to record my objection.

THE COURT: You may examine him as to his qualifications if you wish, Mr. Murphy.

[4055] MR. MURPHY: Yes, I might do that, Judge. Thank you.

Preliminary Cross Examination by Mr. Murphy:

Q. Doctor, as I read your qualifications, one, you have never been certified by any board of specialists as a psychiatrist, have you? A. As a psychiatrist?

Q. Yes. A. No, sir.

Q. Did you ever have any residency in any hospital dealing with the anatomy or pathology of the brain?

A. No, sir.

Q. And have you had since you got out of medical school any clinical experience in any hospital dealing with mental diseases? A. I spent a year attending clinics and making rounds at the New York Psychiatric Institute when it was at Ward's Island. I spent three years working in the psychological clinic under Dr. Prince, who was a psychiatrist; and we were seeing patients all the time; I spent three years in training in psychoanalysis.

Q. Yes. I was trying to find out, Doctor, the number of years and your experience in the branch of medicine

known as psychiatry, and, as I understand it, you said that you made some visits to an institution in New York City where mental patients were. When was that, Doctor?

A. That was 1925-1926.

Q. 1925-1926? A. Yes.

[4056] Q. Was that a full-time job? A. No, it was not, sir.

Q. In other words, how often would you visit Ward's Island? A. Once a week, sir.

Q. And how long a time did it take to complete that course, a year? A. It took a year.

Q. Once a week for a year you would visit the hospital at Ward's Island? A. Yes.

Q. Now, what other hospitals or clinics have you worked in where they were treating people for mental diseases?

A. Ever since I have joined the psychological clinic, the Harvard Psychological Clinic—the Harvard Psychological Clinic is devoted to the treatment of psychoneurosis. Psychoneurosis is a part of psychiatry, and I have been treating and studying and testing psychoneuroses ever since 1926.

Q. Yes, but are there patients there at the clinic?

A. Yes, sir.

Q. Do you keep them there daily? A. Oh no, they don't live there. They come in.

Q. That is what I mean. It is almost like an outpatient department? A. Yes, sir.

Q. I am talking about these poor people who are psychotic, where they have been committed because of some feeble-mindedness. Have you treated those people, Doctor?

A. No, I have not, sir. The word "psychiatry" covers [4057] the psychoses as well as neuroses. I have confined my attention—

Q. To neuroses? A. Largely to the neuroses, and a great variety of other types that are not confined in mental hospitals.

Q. Well, can we say, Doctor, that you have been specializing in the psychoanalysis of people with regard

to their personality as distinguished from some mental disease as we know it, as lay people? A. No, sir. During all this time my title was Assistant and then Associate Professor of Abnormal Psychology, which meant everything this side of an insane institution.

Q. Well, in other words, you were not dealing with people who were psychotic? A. I saw a great many psychotic patients but I passed them on immediately.

Q. To somebody else? A. To somebody else.

Q. And you were dealing with people who had merely some neurosis as distinguished from psychosis? A. Neurosis and a great many other conditions as well.

Q. But you eliminated the psychoses? A. After seeing them and diagnosing them.

Q. Have you had any private practice, Doctor? A. I have a private practice in the clinic, sir.

Q. I didn't quite understand you. You have a private practice in the clinic? You are paid by Harvard to do whatever you do as a professor, and then you have patients of your own; is that what you mean? A. I see patients who want to come and be treated by me, but I do not charge.

[4058] Q. Well, what other than this psychoanalysis of Hitler and what you are about to say, if the Court permits you with regard to Mr. Chambers, who else have you sort of psychoanalyzed in absentia?

A. Why, we do it all the time, Mr. Murphy. That is part of the stock in trade of a clinical psychologist. We have a method that is used called blind analysis and it is used to test the efficacy of this procedure or this other procedure, and the way it works is as follows: one psychologist administers the test, gets the results, hands the results to another psychologist who has never seen the patient at all.

Q. Yes, but he has the tests in front of him, and what the patient or subject has said in response to whether the test was your test or the Rorschach test or some other test. In other words, all he did not have was the sound of the voice. He had what the patient said and what the ques-

tions were and those were certain tests that are all accepted tests in your field, is that what you mean?

A. Not quite, sir.

Q. Well, specifically, Doctor, can you answer me this: other than what you said you did for the Government in trying to understand the personality of Hitler, and Mr. Chambers at the request of the defense, who else [4059] have you analyzed with similar data? Who else have you read books and poems and made an analysis of?

A. Well, this has—this will be of no significance in this court but I have spent 25 years in a very carefully detailed analysis of the writings of Herman Melville. This I regard as an avocation but I have done it as a psychologist would do it and have devoted a great deal of time and energy to it.

Q. Assuming, Doctor, that that has been your avocation for 25 years, trying to analyze the writings of Mr. Melville, have you made any pronouncement about it at all as yet?

A. I have published an introduction to one of his books, a hundred pages introduction, and a hundred pages of footnotes that were partly based on this 25 years study.

Q. And in which you expressed an opinion as to his personality? What was the conclusion? That is not in substance what it was but what were you trying to put in the introduction? A. In the introduction was an attempt to explain an extremely difficult book that literary critics have had some controversy over for years, and I was asked to do this because they thought this book was so complicated. I was not analyzing in that introduction Herman Melville's own character.

Q. In other words you were consulted by literary [4060] people to explain some literary work by Mr. Melville which they had some dispute about. What I was trying to find out, Doctor, was what human being you have psychoanalyzed as to his or her personality based on the writings of the person, other than Hitler?

A. Mr. Murphy, we have had a great many subjects at the clinic for experimental purposes, and a good many patients. Whenever any one of those subjects has ever

written anything that is brought in as part of the material. Whenever I have had a patient and I have had a few who are literary, I have read all their works and that is part of the material that I have used for analysis.

Q. I can see, Doctor, how that would help, but there you had a particular patient that you or your assistants or associates gave some of these tests to, and in addition you were furnished with some of the creative writings, but what I was trying to find out, Doctor, is what human being you have analyzed, as you have analyzed or are going to analyze, Mr. Chambers, based upon the writings, and so forth, is there anybody else at all?

A. I don't know exactly what you mean, Mr. Murphy. I thought I explained in the beginning that that is the regular procedure for a psychologist; to be given a certain amount of material. Now sometimes this would be [4061] material of something the man wrote, sometimes trying to test stories that he wrote in the TAT, and he would make a diagnosis without an interview, and then this material is given to other psychologists to diagnose. Now, it was not quite the way you put it, if you do not mind my saying so, because the words that pass between the patient and the psychologist are not passed on to the second psychologist. That would spoil the scrupulous validity that they are attempting to arrive at. That is the criteria of the value of that test. Nothing must be passed on except what is said in response to the test itself.

Q. You do not have that here. There was no test made here, Doctor, and what I am trying to find out, in order to test your qualifications here, is whether or not you have ever done what you now propose to do with regard to Mr. Whittaker Chambers.

A. Mr. Murphy, if it is appropriate, the material that I have been given in terms of assumed facts in the hypothetical question which was read in the last trial, and this other one, provides me with a great deal more information as to the social history of the individual than is available as a rule.

Q. Assuming that is true, Doctor, for whom else have you ever done it? Who else did you ever have similar

[4062] information given to you and on which you formed an opinion? A. I have thought I have said that I have done it over and over again with a great deal less information. I have never had to testify in court, if that is what you mean. I have never been exposed to this particular situation. But to have material and make a diagnosis on it of this kind is just a stock in trade.

Q. Let me ask you this, Doctor, and we will go on to something else: Do you propose merely to give an opinion merely as to Mr. Chambers' personality? Is that what you are going to tell us? Don't tell us what it is, but do you propose to tell us something about his personality?

A. I propose to make a diagnosis and that diagnosis has to do with his personality.

MR. MURPHY: Well now, your Honor, I submit that if this doctor is going to tell us merely about his personality that that is far and beyond anything that the Court or the jury either should have or desires.

MR. CROSS: If your Honor please, I will read my question. Apparently Mr. Murphy has forgotten it. The question to which objection was made was this:

Now, Doctor Murray, assuming the facts stated in the question which I read to Dr. Binger, and which [4063] you heard and have a copy of, to be true, and taking into account Mr. Chambers' writings and translations which you have just enumerated, have you as a psychologist an opinion, within the bounds of reasonable certainty, as to the mental condition of Whittaker Chambers?

That is the question that is objected to.

MR. MURPHY: Yes. I have no doubt that is the question. What I had in mind, if your Honor pleases, and which the witness has confirmed, is that he is prepared to testify to a personality. Now I submit if we get into the question of personalities any further we will be trying a lawsuit which will go down in history, your Honor, as just a burlesque on something we have never seen before.

THE COURT: Mr. Murphy, the Court will rule on the question put by Mr. Cross.

MR. MURPHY: I will object to the question, if your Honor please, on the ground that the man has not qualified himself in order to testify as an expert as to the mental condition of the witness.

THE COURT: Mr. Murphy, I think the witness should be permitted to testify. What weight, if any, is to be given to this testimony is solely for the jury.

Direct Examination Resumed by Mr. Cross

Q. Now do you have in mind the question, Dr. Murray, [4064] that I have asked or do you want me to read it again?

A. I have it in mind, sir.

Q. Have you an opinion, within the bounds of reasonable certainty, as to the mental condition of Whittaker Chambers based upon the assumed facts and the writings that have been furnished you? A. Yes, I have.

Q. What is your opinion of his mental condition?

A. In my opinion Mr. Chambers has been suffering from a mental ailment known as psychopathic personality without symptoms of psychosis or insanity.

If I could I would like to add a word at this point; that the word "personality" covers the whole structure of a person's mental being. It includes every kind of disorder of personality as well as different types of so-called normal personality.

Q. What kinds of acts do you find are typical of a psychopathic personality? A. There are several different types of psychopathic personalities.

MR. MURPHY: Your Honor, I submit that is not responsive.

THE COURT: It is not.

Q. What are the acts, or what are the facts that you are asked to assume to be true, and what did you find in Mr. Chambers' writings upon which you formed your opinion that he is a psychopathic personality?

[4065] A. I don't think I understand, sir. Do you want me to give all the evidence that I have without defining what I am talking about? I don't quite understand your question.

Q. The question I asked and that was objected to and his Honor thought was not a proper question was, will you explain what you mean by psychopathic personality? There is no objection to that. A. Yes. The essential nature of psychopathic personality is still a matter of debate. There is considerable agreement, however, in regard to certain fundamental causes or characteristics—

MR. MURPHY: Your Honor, may I ask the witness to be more responsive. The question was, "Will you define what you mean by psychopathic personality," and I think the doctor should be able to give us a definition without telling us the causes.

MR. CROSS: I thought he was giving that.

MR. MURPHY: No, sir.

THE COURT: I do not believe it was responsive, Mr. Cross. But it is now one o'clock, so I think we had better take our recess.

(Recess to 2:15 p. m.)

[4066] Afternoon Session

HENRY A. MURRAY, resumed.

Direct Examination Continued by Mr. Cross

Q. Dr. Murray, are you certified as a clinical psychologist? A. Yes, sir.

Q. By what Board or organization are you so certified?

A. By the American Board of Applied Psychology.

Q. Do you remember approximately when you were so certified? A. The Board was only established quite recently, since the war, and I was among the first certified as the Board was being constituted. I would say 1947, perhaps, sir; I am not sure of the date.

Q. What are the functions of a clinical psychologist?

A. A clinical psychologist is expected to examine patients of all kinds, or subjects, or recruits, whatever the particular institution is he is connected with, and make diagnoses or recommendations on the basis of his examination and tests.

Q. On what does the diagnosis of psychopathic personality largely rest? A. It largely rests on the social history, as was discovered particularly in the war, where the Boards of Selection had a great deal of difficulty with this diagnosis, and the only way they could make the diagnosis with any assurance was to get a social history from agencies or members of the community [4067] or some other source. The man himself is usually a very glib and fluent talker and is not apt to give the facts that are required. Therefore, as a rule,—and, in fact, in some institutions it is made a definite rule that you can't make the diagnosis without a social history obtained from all available sources.

Q. And in this case are those facts given you in the form of facts that you are asked to assume to be true in the hypothetical question? A. I would say, sir, that the contents in the hypothetical question are sufficient; they are more plentiful than one ordinarily obtains in a social history; and taken in conjunction with the writings, which may be regarded as substituting for projective tests, the data is sufficient for a diagnosis.

Q. Are there psychologists on the staff of most modern mental institutions, Dr. Murray? A. Yes, sir.

Q. What is the relationship between the functions of a psychologist and a psychiatrist so far as the diagnosis or treatment of anyone having a mental disorder? A. They work together in arriving at the diagnosis. The psychologist does most of the testing, preliminary testing, and possibly some interviewing, but not necessarily. The psychiatrist makes the final diagnosis. If he is uncertain he sends the patient to the psychologist again, and so forth.

[4068] Q. Now I will ask the question which I asked you just before the noon recess, Dr. Murray: will you give us a definition of a psychopathic personality?

A. A psychopathic personality is a disorder in the development of character the most striking objective sign of which is the repetition of a variety of asocial and delinquent, eccentric and hurtful actions.

Q. Is that a mental disorder? A. Yes, sir.

Q. Now, what kind of acts do you generally find in a person having a psychopathic personality? A. There are different types or kinds of psychopathic personalities: one is marked by lying, particularly that form known as pathological lying; by deceiving; by living a false life.

Another is marked by stealing, swindling, gambling.

Another, by violent aggressions; others by abnormal sexuality, drug addiction, alcoholism.

Many of the actions of psychopathic personalities are not, strictly speaking, asocial or delinquent. They are rather eccentric or freakish or erratic, acting out of momentary whims or impulses.

As a result of these irregular types of behavior the human relations, the social relations of a psychopathic personality are highly unstable and inconstant. He seems to have very little capacity to maintain affectionate and enduring relations.

[4069] Furthermore, he is especially prone to what is called paranoid ideas. That is, beliefs that other people are planning to do him harm. In reaction to such expectations he is very apt to accuse people, blame people and accuse people falsely. Thus his actions may be extremely hurtful to others; and as Dr. Krackley, a great authority in this field has shown, damaging to himself. The psychopath is his own worst enemy.

Q. What has been your experience with reference to the psychopathic personality going to a mental institution for treatment? A. Well, as a rule, they do not go to mental institutions for treatment, just as they do not go to private physicians for treatment. They are satisfied with themselves. They are brought to hospitals because they run afoul of the law or have gotten into trouble of some kind; and, of course, if it goes on to something serious, occasionally you will find them going right into the criminal class, and they may end up in an institution.

Some psychopaths get psychotic symptoms, and when they do they are called psychotics; they are diagnosed as psychotics rather than psychopaths.

Q. Will you tell his Honor and the jury what your experience has been with reference to diagnosing cases

where you have found a person having psychopathic per-
[4070] sonality? A. Yes, it has just happened that some of the functions that I have had to fulfill gave me a somewhat unusual opportunity to study psychopathic personalities. As a rule, as I have said, a psychopathic personality does not go to a physician; he does not feel that there is anything wrong with him; and so the average physician or psychiatrist does not have much of a chance to study a psychopathic personality. But for two reasons I have had some opportunity that was a little, perhaps, unusual: one is that in the college population there are a certain number of psychopathic personalities in every college population, and we have been making studies of college students over the years; and in many cases we pay them to come, we pay them a dollar an hour to come to do certain tests and experiments; and a psychopathic personality is very willing to come and be studied for a dollar an hour. He does not want to be treated because he is all right, but to be studied he will. So we have had a few cases we have been able to study in great detail.

In the case of the O. S. S. the whole nature of the Office of Strategic Services and the functions that they fulfill was particularly inviting, I would say—I have no statistics on this—but I would say it was the kind of thing that would draw a psychopathic personality—or the sensation of it, the intrigue of it, the idea of [4071] being a mysterious man with secret knowledge and working as an Intelligence officer, et cetera, et cetera. So that quite a large number of people belonging to this category to a mild or more than mild extent came to the Assessment Schools.

We had a system of assessment that lasted four days. I think there has never been anything in this country in the way of selection that allowed for such detailed and intense study, because we had a house in the country and they came and lived with us and they ate with us. We saw them all day long, and we put them through about 40 different very tough procedures. Out in the fields, and in the house, and so forth and so forth. So that here was an opportunity which was quite rare, to study people of this type with great thoroughness, and we eliminated as many

as we could, because as the Army showed, they are the biggest troublemakers that there are because they do not have what is required for morale and cooperation.

[4072] Q. Do you have statistics or did you make any observations as to the percentage or number that you observed among those whom you interviewed or passed through the Assessment School? A. No, sir. We made a particular point of not doing that. These men were coming to us and were recruited from all over the country. They were personal friends in many cases of the men in the organization, and when we turned them down we did not pin any diagnosis, nothing that would in any way be a blot on their record. They just went back to civilian life without any stain as it were. So we never made diagnoses. We said "This man is not acceptable" and we let it go at that, and I do not know and I have not got any statistics because of that as to just how many.

This Assessment business was not started until—I don't know whether a year and a half,—after the organization had got going, and so quite a few people got into the organization and got out into the field and I had an opportunity to see quite a few psychopathic personalities in China who had got into the institution, and when they got a free hand there in Indo-China, let us say, let loose, and acted in a way that was quite improper in view of what their function was.

Q. Now, Dr. Murray, some questions were asked [4073] yesterday of Dr. Binger with reference to some assumed procedure of our OSS agents with reference to getting a false American passport. Did you ever know of any case while you were in the OSS where an agent applied for or was given a false American passport?

A. No, sir.

Q. What kind of paper was he given? A. They were given identification papers that were suitable to the country into which they would be parachuted. If they would go to France they had the papers of a French peasant, let us say, or something of that sort. They were French papers that were forged and given to them.

Q. And they were simply furnished to them without their applying for them as part of their equipment? A. Part of their equipment.

Q. And I take it the American agents, when they were on active duty were generally in places where an American passport would not have been recognized?

A. I think so, sir.

Q. Now will you tell us, Dr. Murray, the reasons for, or the basis for, your opinion that Mr. Whittaker Chambers is a psychopathic personality?

A. First among the symptoms, and most obvious is lying. Taking the hypothetical question, and assuming that those facts are true, one can point to a number [4074] of instances. One, he lied to Dean Hawkes in 1924 when he returned to Columbia. He made nine false statements in his application for a passport in 1935. He made four, possibly five, false statements in his application for a job in the WPA. He made two oaths of allegiance to this country when he was a member of the Communist Party, a fanatical Communist, and then either before the grand jury or in this trial he has admittedly lied three times. Those are admitted lies.

After this there are a certain number of deceptions, using false names would generally be regarded as a deception; obtaining a false birth certificate for a fraudulent passport would generally be considered a deception. Withholding important information in applying for the WPA job. For example the fact that he had attended Columbia, and the fact that he had worked for the New York Public Library I would consider a deception.

In addition there are certain discrepancies, perhaps, you would say. For example he testified that no books from the New York Public Library had been found in his locker, whereas I have been given to understand the report from the New York Public Library was there were eight books there.

I understand he testified that he had never [4075] used a pseudonym in writing, and then later admitted that he had used a pseudonym—John Land.

Then there is his declaration to the FBI that he left the Communist Party in the spring of 1937, and his testimony in this trial that it was April 1938 and his statement to the House Committee that after leaving the Communist Party for a whole year he was in hiding and slept by day and at night had a gun or pistol beside him, whereas here he testified that it was some months.

These are the forms of what might have been called deceptions or inconsistencies.

As an example of his willingness to give vent to his imagination I would cite the instance of his representing Sandino of Latin America as a revolutionary hero but admitting that he knew practically nothing about what Sandino might be like.

Perhaps also the statement that Mr. Hiss's mother was domineering and then admitting afterwards he pulled that out of the air in conversation.

After these lies and deceptions and rather free use of his imagination I would—

MR. MURPHY: I object to the Doctor characterizing the free use of the imagination. Just tell us the facts, Doctor.

MR. CROSS: I asked the question.

[4076] MR. MURPHY: There is nothing in the assumed question about free use of the imagination and I ask that the witness be instructed to tell this Court and jury only the facts on which he relies.

THE COURT: Just answer the question, Doctor.

THE WITNESS: Yes, sir.

A. (Continuing) Next to that I would evidence stealing; stealing eight books from the New York Public Library and 56 books from the Columbia University Library which must have been a series of thefts and also at least two years of conspiracy to steal four to five hundred documents from the State Department.

The recurrence of those acts over the years is an example of the lack of learning-by-experience which is very characteristic of the psychopathic personality, and not

learning by experience as a result of a deficient conscience and shamelessness. Mr. Chambers himself has noted this crucial defect in character and attributed it to the devil in his article when he has the devil saying, "Shamelessness is part of my pathos."

As evidence of the fantasies and imagination that is extremely common in this type of ailment I would cite first of all the number of pseudonyms and aliases that have been used by Mr. Chambers besides the four, possibly five, aliases used as a member of the Communist [4077] Party. There were two before even joining the Communist Party—Charles Adams and Charles Whittaker.

Charles Adams is quite a typical one because as he said, it was his admiration for Mr. Adams, and it is characteristic to identify himself with a figure of distinction.

Also there are the two pseudonyms, John Kelly and John Land, which he used as a writer, and finally, it seems to me unusual, having been given the name of Jay Vivian Chambers, he used six other versions of this name or six other versions of his own name, Jay Chambers, David Chambers, Jay V. David Chambers, Jay Whittaker Chambers and Jay David Whittaker Chambers.

I have talked to a number of pathological liars, most of whom have used false names, and different names, or changed their names, but I have never known one that used more than four. Altogether we have 14 if you count them all here together.

Next as evidences of fantasies and imaginations I would include a number of eccentric, or, if you will, somewhat freakish acts with a tinge in some cases of the histrionic or sensational, or what some would call exhibitionist flavor.

The first instance was the class prophecy; his reading this version before the very authorities [4078] who prohibited it seems unusual. His going to Williams and leaving in two days and then writing a letter to some fictitious name, or some unknown name and asking to have that letter returned to him in the mail seems unusual; his eccentric return to Columbia in 1924 and giving his reason

that an unconventional partner wanted him to complete his education and then leaving within a term after that and not completing his education; his taking Ida Dailes to live with him in his mother's house under his mother's roof seems somewhat unusual.

The incident of the typewriter or leaving a typewriter in a snbway or elevated train carriage to forget the past seems somewhat eccentric.

Hiding the microfilms in a pumpkin, not the fact that he hid them in the pumpkin, just that, but the fact that he hid them in the pnmpkin prior to the arrival of the investigators, just prior, and led the investigators down to the pumpkin and showed them the pumpkin. There is a flavor of the spectacular in that to me as I see it which is unusual.

Finally I would mention his giving some information in 1939 to the State Department, Mr. Berle, and then over the last ten years adding to that information and increasing it, increasing it until in this trial he has given, as I understand it, more [4079] than he had before. This is very typical of the pathological liar who enjoys telling secret information, tale-telling, accusing, so much that he wants to draw it out as long as possible. If he told it all at once and whatever he knew at once that would be the end of the drama from his standpoint.

Also as evidence in this same category I would mention his tendency to include others in his misdeeds; and here I would refer to the statement he made that a large group of students like himself stole books from the Columbia library.

I have had something to do with a college library and have noted the books that have been stolen or been missing over the years in 20 years, and students' rooms have occasionally been examined, and occasionally we have found one or two or three books. Finding 56 books in anybody's room from a college library in my experience of 20 years or so is out of all range. I would consider that an exaggerated statement on his part.

In this same category also—

MR. MURPHY: I am sorry, Doctor, you will have to repeat that. You considered the finding of the books an exaggerated statement on his part?

Will you read that, Mr. Reporter.

(Portion of last answer referred to read.)

[4080] Q. Which statement do you refer to? A. The statement in the hypothetical question that there were 56 books stolen—I did not word the sentence quite right. I had the hypothetical question in mind in one part of my mind and the stealing of the 56 books in the other part. What I mean simply is that 56 books is beyond any figure that I ever heard of in this connection over 20 years; and his statement that a large group of students did as he did, took books from the college library, seems to me exaggerated in view of that experience of mine. That is what I meant.

As further evidence I would refer to the evidences of paranoid ideas, which I have defined. They are beliefs that people are persecuting you or attempting to harm you or planning or expecting to harm you. We have the statement that at one time he expected to be ambushed; and when asked to define that he said kidnapped or assassinated—assassinated or kidnapped by Mr. Hiss or his fellow conspirators.

I think particularly the statement he made to the House Committee that for a whole year he was living in hiding and sleeping by day and with a gun by his side by night when he was actually living under his own name and apparently taking trips once or twice, two or three times—that is another evidence.

[4081] His statement to Mr. Cowley to the effect that they were surrounded by spies and conspirators would be another example of this class.

Paranoid ideas, that term, also includes grandiose ideas where the individual thinks of himself in a rather glorified way, and his statement that he considered himself a better Communist than Stalin might be cited as an illustration of that type of idea.

Another marked characteristic of the psychopathic personality is his inability to maintain steadfast and

affectionate attachments. He is continually breaking away from associations he has made with others, and here I could quickly run over a number of other instances: Mr. Chambers leaving home in 1919; his shifting jobs; his going to Williams and leaving in two days; his going to Columbia and leaving in two years and a half; his returning to Columbia and leaving in one term when he said he was returning to complete his education; his abandoning democracy to join the Communist Party; his leaving the Communist Party in 1929 and returning to the Communist Party, and five years later leaving the Communist Party again; his joining the Presbyterian Church and a year or so later leaving the Presbyterian Church.

These are examples of what psychiatrists would call emotional vagabondage; that is a lack of steadiness [4082] or persistence or loyalty or steadfastness in his sentiments and values.

We also know that the psychopathic personality not only leaves people and associations but he also attacks them hurtfully; does damage to them; and he can do this without pangs of conscience or regret, because he is generally insensible to the feelings, particularly to the sufferings of other people.

Here I would like permission to refer to my notes. I would like to quote, and I would like to quote accurately.

Am I allowed to do that?

MR. MURPHY: I have no objection.

A. (Continuing) In connection with suffering and the insensibility to suffering, Mr. Chambers has very astutely put his finger—

MR. MURPHY: I object to any characterization.

MR. CROSS: That is right, Dr. Murray. Just read the quotation, because you can't characterize. That would be objectionable.

A. (Continuing) Speaking of suffering, the Devil says, "Intellectually I can understand it but I cannot feel it."

Also in another place he says: "I am as incapable of love as I am of goodness. I am as insensible to either as a dead hand is to the needle thrust through it."

[4083] In Mr. Chambers' case the disposition to injure other people takes a rather special form, as I interpret the facts that I have been asked to assume in the hypothetical question and in his writings, and that is that it takes the form of a disposition to smear, degrade, undermine and destroy a valued person, institution or ideal.

As an example of this I would take first of all "A Play for Puppets" in which women are depreciated first, and, too, in which Christ is set forth in a ridiculous light as a man unwilling to fulfill his mission.

Then as evidence of this I would point to his years, long years as a fanatical Communist in which his labors seem to be, from the evidence that we have, rather to undermine democracy and the American government and not so much, as far as the evidence goes—or not as far as the evidence goes—to build up or fortify Communism.

And he has made the statement that it is a principle with Communists to abolish religion; and even now, when he has said that he was a democrat, the evidence that I have seen indicates that his chief concern is undermining Communism, and we have no evidence of great labors to fortify democracy. So it is still an opposition, to undermine, to pull down, which seems to be operating.

[4084] I would also mention in this connection his accusations against Mr. Sayre, High Commissioner of the Philippines, and now our representative on the Trusteeship of the UN; and also Mr. Lawrence Duggan, accusations which he, in substance, recanted or modified or withdrew after Mr. Duggan's death. These are illustrations of pathological accusations, of the disposition to degrade, undermine and destroy a respected person.

MR. MURPHY: There is no evidence—well, never mind.

A. (Continuing) Here I would like to quote again because it is the question of whether or not this disposition comes out of hidden inferiority feelings and envy, and it

is a little difficult to decide. In one of Mr. Chambers' stories, "The Damn Fool," one of the characters says of the hero, "You wanted to step on him because he always put you in the wrong."

And in "The Devil" Mr. Chambers writes, "The Devil cannot stand contempt."

The best statement of the disposition I am attempting to define has been given by Mr. Chambers himself in "The Devil." The Devil is speaking, "I possess the will to create, hence my pride; but I am incapable of creating, hence my envy. And with my envy raised to such power as immortal minds can feel I hate the Creator and his [4085] creation. My greatest masterpiece is never more than a perversion, an ingenuous disordering of another's grand design, a perversion of order into chaos, of life into death."

The subject matter of some of Mr. Chambers' poems and articles substantiate this inference to some extent. In the four prose pieces that I read: "In Memory of R. G.," that is about the death of a young man killed in the war. In "The Damn Fool" the hero ends in a violent death, and his body being torn into pieces; and in "A Play for Puppets" Christ is represented as not wanting to rise out of death, as preferring to remain dead; and in "The Devil" there is a very eloquent and competent account of the decline of modern man with a prediction at the end of man's extermination. Among the six poems there are three that have something to do with death.

Beyond this is an analysis I have made of the images, the figures of speech, the verbal pictures, you might say, in these writings that were accessible to me; and in this analysis I have found a higher proportion of images, of pictures that had to do with disintegration and destruction, with filth and dirt; with decay and decomposition and death, than in any writings I have ever examined.

A few examples, just to illustrate what I mean, [4086] might not be entirely off the point, images of filth and dirtiness:

"Like a toad in a pool of petroleum";—"A child puddles in the stew of bones";—"Turtles puddling in the

invisible bogwater";—"Beast sunk in an inexorable slough and only the heavens clean";—"The pupils were a swampy black";—"A shop full of steam in a filthy alley"; —"The waste materials that covered all the ground—dead horses, heaps of wet powder, dead cows, rotting forage, dead men, dead vegetation";—"My men and I bleed and rot together";—"Probed the purulent heart of evil as a finger pushes through the walls of an ulcer."

[4078] The high proportion of these images indicates to me a pathological preoccupation with the process of tearing down and destruction and decay and death.

Q. Will you explain, Doctor, to his Honor and the jury, just what importance you attach to images that you have just referred to? A. Images are widely regarded as the most sensitive indicators of the state of feeling and emotion of a person.

I should perhaps make plain what I mean by this word "images." They are mental representations of external objects; they are mental pictures; they are the vehicles of thought in dreaming and in fantasy; and in a great deal of creative writing and poetry and so forth the images are the verbal pictures that communicate certain scenes, and so forth, to the reader, and this is the way children see them and primitive people see them. And the underlying emotions are very closely associated with images; and in depth psychology the emphasis is on images. Freud showed that in his study of dreams and in the technique known as "free association" which psychoanalysts use, there again are images. In the projective techniques that all psychologists use, they are looking for images as well as themes; and that is especially true in creative writing. That is very important, sir.

Q. In your opinion is Mr. Chambers psychotic? A. No, sir.

[4088] Q. Will you explain the difference between psychopathic personality and a psychotic person? A. A psychotic has what is often spoken of as an intellectual defect; that is, in his perceptions of the immediate situation he is prone to make certain errors of perception and apperception. In other words, he is subject to halluci-

nations, illusions and delusions. Also in some of his reasoning processes he is deficient.

In the case of the psychopathic personality, their intellect is intact; in fact, a superior intelligence is quite common among psychopaths.

The way they explain the operations of the imagination in psychopaths, they say the intellect is overruled or dominated by the imagination at certain times, but the intellect itself is intact, and therefore in all examinations, the usual examinations for orientation, space and time, and so forth, the psychopathic personality is normal. Of course, some of them do have psychotic symptoms; there is an overlap in some cases; but in a pure case that is not true.

[4089] Q. In the illustrations which you gave us and read to his Honor and the jury a moment ago, representing, as you said, destruction, and so on—were those taken from the writings of Mr. Chambers which are in evidence in this case? A. They are all in evidence in this case, sir.

Q. And are those taken from his own writings? Are those taken from his own writings rather than from translations? A. Oh yes, of course.

Q. When you were asked by the Government to make a diagnosis or whatever you were asked to do with reference to Hitler and given his writings, did you go through and pick out images such as you have done here?

A. Yes, sir, I picked out 3200 images and put each on a separate card and studied them in great detail in their relations with each other, and was able to arrive at certain conclusions from that which I could not from other sources.

Q. Now, do these images fall in some groupings? You have mentioned destruction, death, filth, and so on. What were some of the other groups that these images might fall in? A. This is a new field and—

MR. MURPHY: I ask that the answer be more responsive.

MR. CROSS: Mr. Murphy objects to the question—

[4090] MR. MURPHY: No, I do not object to the question

MR. CROSS: I mean the answer.

A. (Continuing) To answer your question, sir, you asked for groupings of these images. Ordinarily I would be expected to give groupings that were widely accepted by all psychiatrists and psychologists the world over, and you could find them in the textbook—

MR. MURPHY: Your Honor, I do not know what we are going to expect. All I want, and I think I am entitled to, is a responsive answer. Now, Mr. Cross has asked this witness for the groupings. It seems to me that a man with this gentleman's education should be able to be rather responsive about that without trying to defend his answer in advance.

Q. Let me ask you, Doctor, would some images relate to love, affection? A. I can give you my groupings if that is what you like, sir.

Q. Yes, please do. A. I would group some images as images of light and color and radiance; and others, images of birth, generation, growth, fertility; other images of struggle and ascent and triumph; other images of strong structures, of invulnerable strength and fortitude; other images of fear and flight; others of love and devotion and affection; and finally this group here, of disintegration, decay, decomposition, [4091] pollution, corruption, filth, death.

Q. Have you made any numerical count to determine what percentage of these images fall into this last group that you have found in Mr. Chambers' own writing that you examined? A. I have counted the images that belong to that group; but as I was trying to explain beforehand—perhaps I am not allowed to answer in this way—but may I explain this question?

Q. Yes. A. That at the present time there does not exist a statistical analysis of the distribution of imagery for authors, let us say, in these different classes. That is a 50 years work, and some day I am sure it will be done. Without that as a basis there is no real scientific comparison that can be made. All I can say is that I worked with these images for 20 years, and I have examined

writings of authors and stories that were told in projective techniques, etc., etc., and I have not found in any of those writings anywhere near such a high proportion of images of this class. That is all I can say, sir, and it is acceptable only in terms of 20 years of my experience but not in terms of any systematic scientific study, and it won't be for 50 years.

[4092] Q. Dr. Murray, what would you say with reference to a psychopathic personality as to whether or not he is absolutely unreliable?

MR. MURPHY: I object to that, if your Honor please.

THE COURT: Objection sustained.

Q. Will you tell us whether or not a psychopath, and by that I mean one having a psychopathic personality, is or is not reliable?

MR. MURPHY: I object to that, if your Honor please. I thought the purpose of the entire medical testimony—

THE COURT: I think that objection should be sustained, Mr. Cross. That is a question for the jury.

MR. CROSS: Well, it had a little different meaning but I won't press it in view of your Honor's statement. I mean I won't argue it.

Q. Dr. Murray, will you please tell us whether or not your opinion that you have formed here is based upon the assumed facts and all of these writings that you have described to us? A. Yes, sir.

Q. Is that a combination of all the assumed facts, plus the writings that form the basis for that opinion?

A. The opinion I have formed is not based on one, two, three or four facts, it is based on a [4093] multiplicity of facts and not only on a multiplicity of facts but on the relationships of the multiplicity of facts.

Taking the hypothetical question and the facts that I have been asked to assume there, I get a picture, a total picture of an individual, and after a great deal of thought I have made the diagnosis on the basis of that total picture, but not on any mere addition of facts. It is the interrelations of the facts.

Q. If I were to take separately each one of the assumed facts and ask you if that indicates that the person is a psychopathic personality what would your answer be?

A. I would say that I could not make a diagnosis on one fact. I would ask you whether you would allow me to illustrate what I mean.

Q. Well, go ahead. A. Well—

THE COURT: What is the question now, Mr. Cross?

MR. CROSS: I will ask the witness to illustrate what he means by his answer that he could not take singly any one assumed fact and form an opinion as to whether or not the person has a psychopathic personality.

MR. MURPHY: Your Honor, is not he encroaching a little on my cross examination?

MR. CROSS: I thought I would save a lot of time.

MR. MURPHY: No, you are not going to save any time at all. I am going to have a lot of time here.

[4094] Q. Now, Dr. Murray—I will let Mr. Murphy get at it after this question and answer—what is the reason you consider the writings of an individual to be self-revealing?

A. They often are self-revealing. Writers themselves have admitted and told us that their writings were revealing.

1. Goethe said his works were one long confession, and numerous modern writers whom I know have told me of their revelations in their writings.

2. In the case of Mr. Chambers he is of the type that is more prone to reveal himself than some other types.

3. In the case of the writing or the press work that I would especially emphasize, namely, "The Devil", there are certain special features. In the first place it is the longest, as far as I know, and the best written, in my judgment—

MR. MURPHY: I don't think we are concerned, your Honor, with that.

THE WITNESS: Is that—

MR. MURPHY: Yes, I object. The Doctor is not qualified as a literary expert and we are not interested in his opinion of the literary value.

MR. CROSS: Mr. Murphy objects to any characterization.

Q. You said "3" and you were giving your opinion why [4095] you considered writing self-revealing. A. Yes. One of the reasons, Mr. Cross, with many a writer's work a psychologist, inferior as he may be as a judge of literature, does use his judgment as to whether the author is putting all his talent into this particular work. If you find a work exhibiting special talent as compared to other works, you have one indication that he is putting some of himself into it, and that is all. It may be a very defective judgment because psychologists are not literary critics.

Another point is the use of the word "I". We have found that when an author identifies with a character and uses the word "I" it is more likely than not—it certainly is not any sure indication. There are hundreds of exceptions —more likely to be himself.

Another reason is that in this article "The Devil" there are certain correspondences with Mr. Chambers' own statements in part of his life. "The Devil goes underground." That is mentioned several times.

"The Devil goes in for incognitoes." That is his trick. Those are two which are corresponding.

"The Devil says", in one place, "I succeeded in making mankind believe I did not exist."

There are one or two words wrong there but that is the meaning of it, substantially correct. [4096] Mr. Chambers has called himself the faceless man. These correspondences are suggestive.

Also there are correspondences in his works, in his other works.

There are certain similarities. For example, in one of the Time articles, that is one of the Government's exhibits if I am not mistaken, he says some of the same things about the decline of western man, and here he is speaking straight

out of himself as an author and he is stating it that the Devil says in the other article.

Q. Do you find common expressions of death and destruction running throughout Mr. Chambers' writings including those in "The Devil"?

A. Yes. The imagery in "The Devil" is similar to the imagery in other pieces, and finally there is an absolutely indefinable quality which men who have worked along in this field—you might call them experts—would recognize right away. It is a little bit like tasting absinthe in a daquiri.

MR. MURPHY: Absinthe in what? What is that?

A. (Continuing) The taste is—did you say something?

MR. MURPHY: I didn't understand but I get it now.

A. (Continuing) But some people can taste it and other people cannot taste it and there is that, which I cannot put into words here and does not count in this [4097] court, but I want to add that as an extra piece.

MR. CROSS: You may inquire.

MR. MURPHY: Your Honor, my head is going around so fast I am going to ask for time off. I just cannot competently cross examine this gentleman now. I am just too upset. May we adjourn for the day?

THE COURT: For the day?

MR. MURPHY: Yes.

THE COURT: If we recessed 15 minutes would it give you time?

MR. CROSS: If your Honor pleases, I have another witness. I hate to impose on Dr. Murray who has been here for days and days, but I am willing to put on my last witness if that will help any.

MR. MURPHY: All right. Let us try it that way.

MR. CROSS: If you don't feel well—

THE COURT: I can realize, even as a Judge, that a lawyer might like a little time to prepare himself for cross examination of an expert of this character. Will you put on the other witness now?

MR. CROSS: I have the other witness waiting and I will be glad to. He is both a factual and character witness and I don't think it will take long.

MR. MURPHY: Why don't you do that.

[4098] THE COURT: Yes. That will be quite satisfactory.

(Witness temporarily excused.)

JAMES T. SHOTWELL, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination by Mr. Cross:

Q. Dr. Shotwell, what position do you now hold?

A. I am the president of the Carnegie Endowment for International Peace.

Q. Were you for many years connected with Columbia University as a professor? A. I was.

Q. When did you first start teaching at Columbia University? A. 1900.

Q. When did you become professor at Columbia University? A. 1906 or 1907.

Q. Are you retired from Columbia University, Dr. Shotwell? A. Yes.

Q. When were you retired? A. 1942.

Q. Before your retirement what was the chair or professorship that you held? A. I held a professorship of history for many years and then professorship of the history of international relations named after Lord Bryce.

Q. Did you at one time have some connection with the Encyclopedia Britannica? A. Yes. I was assistant general editor of the Eleventh Edition in London in 1904 [4099] and '05.

Q. Will you tell us briefly, Dr. Shotwell, some of the positions that you have held in addition to your teaching positions at Columbia University and your work with the Encyclopedia Britannica?

A. Well, in 1917 I was called into the Government service to prepare the materials for Wilson at the Paris Peace Conference and went as the Chief of the Division of History of the American Delegation to negotiate peace

with Wilson to Paris. And after the Peace Conference was over—I may say that in that I was also the negotiator along with Mr. Gompers for the ILO, the International Labor Organization.

Before I went there Mr. Root, president of the Endowment, had asked me to outline a project to measure, if possible, or describe, the effect of the World War, the effect of the first World War. And when Government service was over I took that up for the Endowment as General Director of the Economic and Social History which was planned mainly between me and Mr. Root before I went over.

I lived those three or four years in Europe on that task which—I don't know how much you want of this—but it resulted in 150 volumes worked out with some 35 wartime Cabinet members and 200 others.

[4100] Q. After you retired from Columbia University did you do some work for our State Department? A. Yes. The reason I retired from Columbia was that I was asked by Secretary Hull to come into the State Department as a consultant and advisor on the planning of the peace after the war and worked there with Mr. Hull and Sumner Welles mainly. I was on five committees of the State Department during the war.

Q. Did you attend the San Francisco Conference in 1945? A. Yes. I was there as Chairman of the Consultants of the American Delegation.

Q. When did you become president of Carnegie Endowment for International Peace? A. I was elected president in the present full measure in May of last year—1949.

Q. Before you were elected president in May of last year, Dr. Shotwell, I think you said you had been a trustee? A. I was trustee from 1925.

Q. Continuously? A. I think it was 1925; something like that, or about that.

Q. Whenever you first became a trustee you have been continuously a trustee since that date?

A. Oh yes.

Q. And what were your activities with the Carnegie Endowment prior to the time when you assumed the duties of president, either acting president or elected [4101] president? A. I was in charge of all of the research work outside of the field of international law, as Director of the Division of Economics and History.

Q. And have any of your research findings been published? A. Oh yes, a considerable number. For one thing there was a whole series of volumes on the methods of negotiating in the Paris Peace Conference itself, going back into History. There was a series of volumes dealing with things like the Kellogg Pact and various movements, serious movements, in the realm of international peace—the problems. There were four or five volumes of that kind.

Q. Have you written a number of books? A. That is what I meant, my own. I was directing, of course, every year, as the records of the Endowment would show. There were over, I should surmise, 25 to 30 projects of research which I was responsible for in the fields of economics and politics, as well as of law.

Q. Did the Carnegie Endowment at some time have a Committee on Atomic Energy? A. Yes, it did.

Q. Did you have anything to do with that?

A. I was chairman of it.

Q. What was the nature of your work on that?

A. It was an effort to reach some kind of understanding of the situation to which we had been brought. I had the most members, at least a fair number of the members [4102] of the Manhattan project, you know that central organization of our Government, to produce the atomic bomb—I had a committee finally of about 100 members who met and discussed and worked out problems of how to safeguard our country and the world peace under those conditions.

Q. And you finally made a report? A. Yes. There was a report made.

Q. And that report was made about when? A. I would not offhand say. It must have been about the end of 1946 or something like that. It was published and was used by the United Nations as well as by our Government.

I ought, perhaps, to safeguard myself by saying that at every step—this is not for publication—but I was in touch with our State Department to make sure this was not a private enterprise running contrary to our interests.

Q. Dr. Shotwell, I see from my notes which came from "Who's Who" that you have a number of doctors' degrees from various universities in this country and Canada and Europe. Have you? A. Yes, some. I think it is 11 or 12 honorary degrees, honorary doctors' degrees.

Q. One of which is Columbia University?

A. Columbia.

Q. And Dartmouth? A. Dartmouth, yes, Johns Hopkins, [4103] and other places.

Q. Also have you received citations from foreign governments? A. Yes, I have. Among others, the last was the Commandership in the Legion of Honor of France which I naturally treasure.

Q. Do you know Alger Hiss, Dr. Shotwell?

A. I do.

Q. When did you first meet him? A. I met him, but very casually, at the San Francisco Conference; had not known him before.

Q. When next did you come in contact with him?

A. When he was nominated for the presidency of the Endowment.

Q. You were then a trustee? A. I was.

Q. Of Carnegie Endowment. Did you know, Dr. Shotwell, that he was under consideration for the presidency of the Carnegie Endowment for a matter of months before he was finally elected? A. I did. I was fully informed.

Q. Who was on the committee to make a recommendation?

A. Mr. John W. Davis, Mr. Arthur Ballantine, Mr. John Foster Dulles.

Q. Was it Mr. Dulles or Mr. Wadsworth?

A. Mr. Wadsworth. I don't know. This is from memory, but I think that is right.

Q. Mr. John Foster Dulles is chairman? A. He was [4104] chairman of the Board of Trustees.

Q. For how long a period has he been chairman?

A. When was he elected? I don't know exactly. It must have been the year before.

Q. During the time that Mr. Hiss was under consideration for the position as president of the Carnegie Endowment did you make inquiries of your own as one of the trustees of Carnegie Endowment with relation to Mr. Hiss and his record and his work? A. I did. Perhaps I should, if I may, explain that and just say that it was solely with an eye to his competence for this position.

Q. And did you report or talk with your members of the committee? A. I did. I found from the State Department where he had been employed that he was regarded as one of the ablest men in the Department at that time and received the fullest and strongest commendation of him which I naturally passed on to my colleagues.

Q. Dr. Shotwell, there has been testimony here about a dinner of the Carnegie Endowment, and I think the date given was December 12, 1948, and that there followed, the following day, the meeting, the formal meeting of the Endowment. Does that accord with your memory, or would you care to see any papers to make sure of your dates?

A. No. That is right. It is the established practice [4105] of the trustees to have a dinner the night before their meeting, either their semi-annual meeting in December or their annual meeting in May, so they have always met at dinner to discuss general questions; not to anticipate too much the actual work of the next day's session, but it is an occasion to get together and exchange views.

Q. Is this dinner attended by all of the people who attend the formal meeting the following day?

A. It is.

Q. Do you recall where this dinner was which was held December 12, 1948? A. We generally meet in the Century Club, but I think that evening it was impossible to hold it there and it may have been at the Hotel Beekman up on Park Avenue where we have at sometimes met. I forget.

Q. Do you recall who was present at this meeting? A. Practically all of the members of the Board.

Q. Who presided? A. John W. Davis, because Foster Dulles was in Europe for his work over there for the State Department. John W. Davis is vice-president of the trustees.

Q. Vice-president or vice-chairman? A. Vice-chairman of the Board of Trustees.

Q. And Mr. Dulles was chairman? A. Chairman.

Q. Would it be in accord with your memory that [4106] Mr. Dulles left for Europe some time in September of 1948 and did not return until some time in January of 1949?

A. That is right.

Q. Now at this meeting, as I recall the testimony, Mr. Murphy asked Mr. Hiss if he was asked by one of the trustees if he had testified before the House Committee that he specifically checked—I am not quoting exactly—checked with Mr. Justice Byrnes with reference to his coming to the Carnegie Endowment. Do you recall some such question or discussion at that meeting?

A. There was a discussion raised by one of the members, as you say.

Q. Who was the member? A. Mr. Bullitt was the member.

Q. And was the question that I have suggested substantially the question that was asked by Mr. Bullitt of Mr. Hiss? A. That is my memory.

Q. At some time did Mr. Hiss withdraw from the meeting? A. Yes. He asked to be allowed to retire so that the trustees could be free to discuss the whole situation.

Q. And was it after this question and Mr. Hiss's answer and perhaps some other comments that Mr. Hiss withdrew from the meeting? A. I think so. I am not sure.

Q. Were other trustees of the Endowment called upon by Mr. Davis to express their views, one by one, not [4107] what their views were, but just the fact as to whether or not they were called upon to express their views?

MR. MURPHY: Your Honor, Mr. Cross realizes, of course, that this witness could not tell us what the views

were and I am sure whether or not they were called upon to express their views does not further the cause, because we are not going to be allowed to tell or be informed what their views were, so I suppose the question is objectionable on that ground; that it is not going to serve any purpose and therefore is not material nor relevant.

MR. CROSS: I do not understand now, and I did not understand at the time, what Mr. Murphy's purpose was in asking Mr. Hiss this question, unless it be to leave the impression that the body of trustees of Carnegie Endowment were against Mr. Hiss at that meeting, and I want to show what the facts really are.

MR. MURPHY: No, sir, your Honor. My purpose was to impeach Mr. Hiss's credibility as a witness and as a defendant and I wanted to show that he equivocated and lied when he was interrogated by one of his fellow trustees. Now whether some or all of the other trustees liked, loved or hated Mr. Hiss has no relevancy here at all; none whatsoever.

[4108] MR. CROSS: Well, I submit, if your Honor please, the answer to the question asked and the answer given by Mr. Hiss and the action taken—

THE COURT: I think you could go ahead and ask that question. I am doubtful whether it is material. but it is the next question that maybe you will want me to rule upon.

MR. CROSS: Now, will you read the last question.

(Question referred to read.)

MR. CROSS: His Honor said you may answer.

A. Yes.

Q. Were each called upon separately? A. Separately.

Q. And was every member of that meeting after Mr. Hiss withdrew and in his absence called upon to express his views?

A. That is right.

Q. After they had been all called upon did Mr. John W. Davis—not what he said—did he make some remarks?

A. He did. He summed up.

Q. After that was there a vote taken? A. Not on that occasion, as I recall it. It was left for the meeting the next day. This was a preliminary meeting. I may be wrong on that, but my memory is that we did not vote that night. I may be wrong. I would not say positively.

Q. I do not have the original here, Dr. Shotwell, but is this a copy of a letter that was submitted by Mr. Hiss [4109] before the formal meeting of the trustees on December 13, 1948? And I show you a copy of the action taken on that day. A. That is right.

Q. And the second paper I show you is a copy of the vote of the board of trustees of the Endowment taken on December 13, 1948? A. That is right.

MR. CROSS: I offer these in evidence (handing to Mr. Murphy).

MR. MURPHY: No objection.

(Marked Defendant's Exhibits 6 x I and 6 x J.)

(Mr. Cross reads Defendant's Exhibits 6 x I and 6 x J to the jury.)

MR. CROSS: If your Honor please, if I might suggest a recess at this time, there is a paper that temporarily I am not able to lay my hands on which I would like to put in at this time and not have to pass it and then come back.

THE COURT: Very well, we will take a short recess.

(Short recess.)

BY MR. CROSS:

Q. Dr. Shotwell, the vote that we put in here just before the afternoon adjournment did not state one way or the other as to whether this leave of absence was with or without pay. A. Was with pay.

[4110] Q. With full pay? A. Full pay.

Q. At an earlier date had there been some vote passed by the executive committee of the Carnegie Foundation? I show you a paper that perhaps may help (indicating).

A. Yes, sir.

MR. CROSS: I offer this in evidence as Defendant's Exhibit 6 x K.

(Marked Defendant's Exhibit 6 x K.)

(Mr. Cross reads Defendant's Exhibit 6 x K to the jury.)

Q. Dr. Shotwell, from, say, some time in August 1948 up until you were elected president of the Carnegie Endowment, I think May 5, 1949, what duties did you perform, and, so far as you know, will you tell us what duties Mr. Alger Hiss performed during those months as far as the Carnegie Endowment is concerned? A. My official post, of course, was still—no. In May, at the meeting in May I had taken a leave of absence and was consultant to the Endowment. I had previously, just to make clear, I had previously been the director of the Research Division of Economics and History—I referred to that before—and in May of that year I retired at my own request and was made consultant to the Endowment during the summer months. That was my position. Is that your question?

Q. Yes. Then beginning in August or September of 1948 [4111] when the congressional hearing started, what were your duties with the Endowment? A. I came down from the country and looked over the situation from the standpoint of a trustee as well as former director of this division, and because at that time Mr. Hiss had been under examination by a Congressional Committee and the name of the Endowment was involved, naturally I inquired personally, without any official position other than trustee—a consultant is just a research position, of course—I inquired among the trustees, among my fellow trustees, their opinions on this situation; and also in the State Department of which I had been a member before, to satisfy my own ideas and conscience in the matter.

Is that what you are asking?

Q. Yes. And were there a number of letters that were received by either Mr. Hiss or by the Carnegie Foundation during that period after the publicity started in August of 1948? A. When I told Mr. Hiss—

MR. MURPHY: May I ask now that he be as responsive as he can? The question was whether a number of letters were received.

A. (Continuing) Yes.

Q. Without going into each one of the letters, were these letters commendatory letters?

MR. MURPHY: I object now, your Honor. Mr. Cross [4112] must certainly know that.

MR. CROSS: This is the basis of his later testimony as a character witness, if your Honor please.

THE COURT: I think that objection must be sustained, Mr. Cross.

Q. Dr. Shotwell, how many of these letters did you collect or read, without telling what the contents of the letters are? A. Some 360.

Q. And in addition did you talk with various people about Mr. Hiss? A. I did.

Q. Now, I will ask you if the executive committee of the Foundation on February 17, 1949, voted to extend the leave of absence granted Mr. Hiss on December 13, 1948 to the date of the annual meeting to be held on May 5, 1949?

A. It did.

MR. CROSS: I offer this in evidence as Defendant's Exhibit 6 x L.

(Marked Defendant's Exhibit 6 x L.)

(Mr. Cross reads Defendant's Exhibit 6 x L to the jury.)

Q. I show you a paper, Dr. Shotwell, and ask you if the original or copy of that letter was presented to the board of trustees of the Carnegie Foundation before the meeting on May 5, 1949? A. It is.

MR. CROSS: I ask that this be marked Defendant's [4113] Exhibit 6 x M, and, Mr. Toner, will you detach what I folded over later? I do not want that as part of that exhibit.

(Marked Defendant's Exhibit 6 x M.)

(Mr. Cross reads Defendant's Exhibit 6 x M to the jury.)

Q. Had you at Mr. Hiss's request, Dr. Shotwell, communicated that decision of Mr. Hiss informally to the executive committee some time previous to this letter?

A. I had.

MR. CROSS: Perhaps without reading all the minutes of the board of trustees of May 5, 1949, Mr. Murphy will agree that I may read those present, and then the action taken so far as Mr. Hiss is concerned, and then you may look and if there is anything more you can read that, too.

MR. MURPHY: All right.

(Mr. Cross reads from Defendant's Exhibit 6 x N to the jury.)

MR. CROSS: I will offer this as Defendant's Exhibit 6 x N.

(Marked Defendant's Exhibit 6 x N.)

Q. From early September until May just what duties did you perform at the Endowment, Dr. Shotwell? A. I was acting president.

[4114] Q. What if anything, so far as you know, did Mr. Hiss do or have to do with at the Endowment during that period?

A. Mr. Hiss was very helpful during the autumn and early winter months—in fact, during the winter, during the period—but especially, in order to get the work of the Endowment well established along lines that he had laid down for it, and I naturally referred all matters that had been begun under him, I referred all those matters to him from time to time.

Q. What about the matter of an annual report? Is an annual report presented every year? A. Yes, there is an annual report published of the Endowment every year.

Q. And was that written by Mr. Hiss? A. The introduction is always by the president, and he is responsible for the contents which naturally are prepared under his direction by the staff.

Q. Is this the Carnegie Endowment For International Peace report for 1948 (indicating)? A. It is.

(Mr. Cross hands document to Mr. Murphy.)

MR. MURPHY: Your Honor, Mr. Cross says he is going to offer it and not read it now. Of course, I have not had a chance to read it; I do not know whether there

is anything that is prejudicial there. Can we do it this way, may we have it marked—

MR. CROSS: I will have it marked for identification [4115] and let Mr. Murphy read it.

Will you mark this, please, as Defendant's Exhibit 6 x O for identification.

(Marked Defendant's Exhibit 6 x O for identification.)

Q. Did Mr. Hiss receive an honorary degree at Johns Hopkins after he was elected president of the Carnegie Foundation? A. He did.

Q. Dr. Shotwell, is this an article of Mr. Hiss's that appeared in the Christian Register in March 1948?

A. Certainly.

MR. MURPHY: I have not seen it, your Honor; I do not know its relevancy, nor do I know how the witness is qualified to say that it is, but until I have had an opportunity to read it—

THE COURT: Supposing we mark it for identification.

MR. CROSS: I will mark it for identification the same as the other, and may it be understood that it may be offered without calling formal proof that it appeared in the Christian Register of March 1948, which is a publication of the American Unitarian Association?

MR. MURPHY: If you tell me that it is, it is all right.

(Marked Defendant's Exhibit 6 x P for identification.)

[4116] Q. When Mr. Hiss was awarded an honorary degree at Johns Hopkins University, who else was granted an honorary degree on that occasion?

MR. MURPHY: Your Honor—

THE COURT: Aren't we going too far afield, Mr. Cross?

MR. CROSS: I won't press it if there is any objection.

Q. Now, Dr. Shotwell, have you heard people speak of Alger Hiss since you have known him? A. I have.

Q. Have you seen Alger Hiss after his election as president of the Carnegie Endowment on many occasions?

A. I have.

Q. Will you tell us how frequently you saw him while he was president? A. Well, currently, in the transaction of the work of the Endowment almost daily for a while. There would be intervals when we would not meet, but he was taking up the new task of presidency in an institution in which I had spent some 25 years, and, naturally, we consulted together over the past program and the connections of the Endowment, and on the problems that were coming up to him as they affected the Endowment. I should say, as far as I can recall, it was a very free consultation.

Q. Have Mr. and Mrs. Hiss ever visited you in your home? A. They have.

[4117] Q. Where was that? A. In Woodstock, New York, near Kingston.

Q. Did they spend a weekend there with you?

A. A weekend.

Q. Dr. Shotwell, what is Mr. Alger Hiss's reputation for integrity, loyalty and veracity? A. As far as I have ever learned from anyone, either now or previously, the highest.

MR. CROSS: You may inquire.

MR. MURPHY: I have no questions. Thank you. You are excused.

THE WITNESS: Excused?

MR. MURPHY: Yes.

MR. CROSS: Thank you very much, Dr. Shotwell.

(Witness excused.)

THE COURT: We will adjourn until tomorrow morning at half-past ten.

(Adjourned to January 13, 1950, at 10:30 a. m.)

[4118] New York, January 13, 1950; 10:30 o'clock a.m.
Trial resumed.

HENRY A. MURRAY, resumed.

MR. CROSS: Mr. Murphy, if your Honor please, does not object to the annual report for the Carnegie Endowment for International Peace for 1948 which was

marked yesterday as Defendant's Exhibit 6 x 0 for identification now being marked as an exhibit.

(Defendant's Exhibit 6 x 0 for identification received in evidence.)

MR. CROSS: There are one or two questions I wanted to ask before Mr. Murphy began his cross-examination.

Direct Examination Continued by Mr. Cross:

Q. Dr. Murray, it has been said that psychopathic personality merely serves as a scrap basket to which is relegated a group of otherwise unclassified personality disorders and problems. Do you agree with that statement?

A. No, sir, not wholly.

Q. Will you tell us why? A. If you examine the symptoms of this mental ailment just from the outside, as they appear on the surface, it seems to be a very confused category without any unity, but I believe there [4119]are certain unifying factors.

Within recent years certain authorities have arrived at some consensus about some of the fundamental causes or characteristics of this ailment. Of these causes and characteristics, the principal one seems to be egocentric, and by that I mean an intense self-centeredness or, as Kaufman calls it, a cruel selfishness with the incapacity to appreciate the feelings and view-points of other people, and as a result of this a deficiency in social consciousness. The psychopath's conscience on the one hand is too weak to inhibit asocial impulses when they arise and too indulgent on the other hand to punish him after he has given vent to them. As a result he does not feel remorseful or repentant when he hurts other people and he is capable of recounting his misdeeds without evidence of shame. As a result of this weak conscience and shamelessness, there is no, or very little, learning from experience.

The psychopath goes on acting always as he has before. That accounts for the common saying among psychiatrists, "once a psychopath always a psychopath."

The general view is that they are incurable, at least by any means known to science, and one of the reasons

for this is that they are incapable, apparently, of having any respect or affection for anyone who tries [4120] to help them, and this applies to police officers, social workers or psychiatrists. They are particularly contemptuous of psychiatrists, which may be an example of their superior intelligence.

On the other hand, it is regarded, at least by psychiatrists who want to give it the most flattering explanation perhaps, that they cannot bear the feeling that they need help.

MR. MURPHY: Would your Honor strike out the answer so far as not being responsive?

THE COURT: I think I will have to have the question read.

(Question read as follows: Dr. Murray, it has been said that psychopathic personality merely serves as a scrap basket to which is relegated a group of otherwise unclassified personality disorders and problems. Do you agree with that statement?

"A. No, sir, not wholly.

"Q. Will you tell us why?")

MR. MURPHY: The question was asked of the doctor to explain why he does not agree with some other authorities that the description psychopathic personality is in its essence a sort of wastepaper basket receptacle for a lot of different symptoms, and the doctor now has gone into a long treatise explaining different symptoms but not [4121] explaining why he does not agree with other doctors that perhaps a better name is a wastepaper basket receptacle.

MR. CROSS: I thought he had stated that there were certain common traits, which he is stating what they are, and they are recognized.

THE COURT: Are those your reasons, Doctor?

THE WITNESS: Yes, sir.

THE COURT: The reason why?

THE WITNESS: Yes, sir. It is the unifying principle—

THE COURT: I should think he was answering the question.

Q. You may continue, his Honor says, Dr. Murray.

A. What I was trying to describe was the unifying principle that explained a great many of these different kinds of behaviors, because if you have a weak conscience associated with insensibility to the feelings of other people, these impulses which are hurtful to other people can rather easily be given vent.

Then, in some cases, if it is alcohol a man takes alcohol; if it is drugs it is drugs—

MR. MURPHY: May I interrupt. I submit now it is quite obvious that the doctor is not explaining why he does not characterize the alleged disease as a wastebasket.

[4122] THE COURT: I think you are right. Doctor, if you will bear in mind what the question asked for and answer that.

THE WITNESS: I am a little bit perplexed at this point, sir, because, as I understood the question it was, in your opinion what are the unifying characteristics or causes which give order to this very confused external picture, and I am trying to give those central causes and characteristics.

THE COURT: Perhaps you would like to have the question read? Would you?

THE WITNESS: All right, sir.

Q. (Read.) A. Yes, sir. The reason why I do not agree with the statement that it is a scrap basket where a lot of different unrelated things are put in is because there is a unifying ordering set of factors which relate these different things to each other and make some psychostructure from a sociologist's standpoint, and that is what I was saying to the best of my ability, sir.

[4123] Q. Can, in your opinion, Dr. Murray, a psychopath be cured? A. There are very, very few cases reported by optimistic psychiatrists on the partial cures, but the great majority of them have not been cured. They do not stay with a doctor long enough, for one reason.

MR. CROSS: You may inquire.

Cross Examination by Mr. Murphy:

Q. Doctor, would you describe your personality as normal? A. Relatively.

Q. Well, only relatively normal? A. Relatively normal, sir.

Q. What would you say would be a good definition of a normal personality? A. I would say that a normal personality would be one that would conform to a general standard for the culture in which the individual belonged without too many or too serious deviations. It would be a matter of the number and the seriousness of the deviations from the standard for that particular society.

Q. What is the standard for our society?

A. In what respect, sir?

Q. So we can determine how far below you are from relatively normal. A. It would take a volume to answer that, sir.

Q. Well, tell us, then, since we do not have [4124] time for that, why you feel that you are only relatively normal? A. The term "relatively normal" is the term generally used in science instead of the word "normal" because it is less absolute.

Q. Doctor, isn't it true that there is no absolute normal or normality? A. Yes, sir; that is why I said relatively normal.

Q. So that when we start going into deviations from normal we do not start with any standard; isn't that correct, Doctor? A. We could arrive at a standard, sir.

Q. Yes, but when we talk about deviations from normality we ourselves are not too clear what normality is. In other words, the hypothesis upon which it is based is not well defined, isn't that clear? A. Not too accurately defined, yes, sir.

Q. Well, has any doctor, to your knowledge, attempted to define it? A. Yes, sir.

Q. Did you? A. No, I have never written it.

Q. Now, Doctor, would it be of any significance at all if you examined a subject and upon examination you watched him for a number of hours and talked to him and you noticed that his mouth twitched and that his eyes

opened and closed; that he had rather excessive hand gestures; that he gazed about; that he played with his watch chain; that he sniffed nervously [4125] through his nose; sometimes he bit his lip as if his tongue were dry; played with his glasses and his nose—would those be any sort of symptoms to you as a doctor?

A. No, sir.

Q. None whatsoever? A. No.

Q. Do you discount the outward expressions of a patient? A. No, sir.

Q. You have to take them into consideration, don't you? A. I do take them into consideration if I have them to observe.

Q. Yes. My question was, then, you would in fact take those into consideration in observing a subject? A. Yes.

Q. And would it form any basis at all in your diagnosis? A. It might.

Q. It would have some importance, can we put it that way? A. It might if they were significant.

Q. Well, what are they significant of generally? A. Significance depends upon relations with other things that you observe and the intensity and quantity of these things in terms of your whole knowledge of character structure and mental ailments.

Q. So that we can get on by saying it would have some importance when considered with the whole?

A. It might have some importance, sir. There are [4126] a lot of things that are done and said that are psychologically irrelevant.

Q. Does that hold true, Doctor, in diagnosing symptoms or characteristics that although it might appear on the surface to be a characteristic, once you study it a bit you can disregard it? A. Sometimes.

Q. Now, I think you told me when I was examining you on the voir dire that you were not certified as a psychiatrist. A. I was certified by the Boston Psychoanalytical Society to practice psychoanalysis.

Q. So we can say that you are not certified as a psychiatrist? A. Yes, that is right.

Q. And when you had charge of the OSS assessment of men, those schools, you and the other doctors had these men under rather close observation for a period of time —I forget what the period was—but they were there; you looked at them through one-way mirrors, and all that sort of business too, didn't you?

A. No, we did not use one-way mirrors.

Q. Well, you put them through a rather severe test; I think you said you gave them a number of tests, and so forth? A. Yes.

Q. Doctor, is it true that some slipped by? A. Oh yes.

Q. Even with all of those close tests? A. (Witness [4127] nods.)

THE COURT: Will you answer instead of nodding your head, for the benefit of the stenographer.

THE WITNESS: Excuse me, sir.

Q. Some, in fact, did slip by with that close scrutiny? A. Excuse me, Mr. Murphy, what do you mean by "slip by"?

Q. Well, were you able with all of the close scrutiny that you and the other doctors applied in the various tests to eliminate all of the people that you would want to eliminate from OSS service? A. No.

Q. Now, when you testified yesterday, Doctor, about the passports that OSS men used and the papers that were furnished them, you were not testifying as an operations officer of OSS, were you; you had nothing to do with the operations? A. No, sir. I was asked whether I knew of these things. I don't know them. They might have happened.

Q. They might very well have happened. I mean, your duty as a Colonel was to take charge of these schools, which is somewhat similar to the man in the Ford Automobile Company, the draftsman—he would have no idea how the cars were financed after they got on the street. A. It would not be "no idea" because, as I have said, I went around the world and spoke to all these men, but my evidence is not expert.

[4128] Q. You would not feel qualified to talk about operations, would you? A. No, sir.

Q. All right. Now, so that we can understand each other, it is clear, is it not, that at no time have you applied to Mr. Chambers any of the various projection tests, your own test or the Rorschach test, none of those well known tests have been given to Mr. Chambers by you or anybody else to your knowledge?

A. No, sir.

Q. And I think you told us that those tests often help the psychologist to look into the inner soul; in other words, it develops like an X-ray, something that you can't see or hear, but it records for your proposes the things that the subject either does not want to tell or doesn't know and can't tell—I think those were the two categories—and those tests were not applied here? A. No, sir.

Q. As a matter of fact I think you said that you in 1943 had done a similar job for the Government in connection with Adolph Hitler; you had been given a copy of Mein Kampf and a large collection of his speeches, isn't that correct? A. Yes, sir.

Q. And I think you said that you were asked to give to the Government your inferences as to his personality and predictions as to whether he would [4129] be likely to stand up under the strain of war for many more years, etc., etc.; isn't that what you said, Doctor? A. I have no doubt, sir; I think I said that.

Q. Do you know whether that report of yours was put into General Eisenhower's hands when he planned his invasion? A. I don't know.

Q. Well, did you know, Doctor, when you had all of these various speeches that perhaps Hitler didn't write them but maybe Goebbels wrote them; maybe you were analyzing Goebbels? A. I had heard a number of rumors about who had helped him, and it was possible from a very close and detailed analysis of the metaphors and phrases to note when an entirely new type of image came in. It was Hiss—

Q. Did you, Doctor—excuse me. A. According to

the stories which I received that were supposed to be quite authentic from Mr. Hanstaengal.

Q. He is from Harvard, isn't he? A. One of our distinguished graduates.

Q. He is one of Harvard's distinguished graduates, you said. I see. Now you said, when I interrupted you, Doctor, that you had information that—and then I interrupted you. A. That Hiss had helped him in some of the writings.

Q. Hiss did? I don't think, Doctor, you used [4130] the right word. You said Hiss had helped him.

A. Well, it is Hess.

Q. Hess. A. Hess.

Q. Well, Doctor, if the author of the speech is not the man you were giving predictions on, wouldn't that throw you all off? A. If that was true, if he hadn't written any of it it would certainly make it very much less valuable.

Q. Well, let us suppose, Doctor, you were asked to analyze the speeches of the late President. Could you tell whether Judge Rosenman or Mr. Sherwood was the author of a particular speech? A. I haven't studied them, sir, and I can't tell. In some cases you might be able to, in other cases you couldn't possibly.

Q. You think that if you had an opportunity to study the late President's speeches you could tell which of the three people who worked on the speeches, written them, were the authors? A. I would have to know all the three people and how they wrote independently and have a speech of the President before he met these men, and a great deal of information.

Q. And even with all of that, Doctor, even with all of that, could you tell as a Doctor which paragraph and which speech was written by any of four men?

A. Probably not.

[4131] Q. No. What was your prediction of things to come with regard to Mr. Hitler? A. I predicted that he would commit suicide at the end of the war, but I got the wrong place. I had him committing suicide up in his mountain instead of in Berlin.

Q. And what did the other psychologists predict? A. I don't know, sir. We did not compare notes. We never got together at all. We handed in separate reports.

Q. You say that took you about, I think you said, a month to do; you had a great deal of material. How long—a month was not right. A. I had already been asked a year earlier to do the same thing for a committee that I was on here in New York, and I had already a partial study so that I could do it in a relatively short time with the help of about six people, I think in about three weeks.

Q. About three weeks. Now you said yesterday, as I remember it, that this technique of these projective tests, that is the technique that you learned as a doctor, can be applied to spontaneous writings of artists and authors; is that what you said, Doctor?

A. Yes.

Q. Well, if you assume, Doctor, that Mr. Chambers wrote every week, if you assume that he wrote every week for Time since 1939 for a salary, would you say [4132] that that would be spontaneous writing, for instance? A. Not strictly speaking.

Q. Well, assuming the facts were, Doctor, that the article "The Devil" was written at the specific direction of Mr. Henry Luce after somebody else had written an article that Mr. Luce did not like, would you say that that would be a spontaneous writing? A. Not entirely.

Q. No. Now, Doctor, in your assumed state of facts, the hypothetical question, what facts did you have which gave you an insight into Mr. Chambers' early formative years, his childhood and adolescence? What facts did you have? A. There are practically no facts there, sir; there is the statement that he was not close to his brother, there is the statement that he taught himself French and German and was not competent in geometry, and there is the class prophecy story. Aside from that—

Q. Almost nothing? A. Almost nothing.

Q. Well, let us analyze those, Doctor. Would you say that a person who studies by himself two foreign languages exhibits any symptom that you can regard or disregard in forming an analysis of his personality?

A. By itself, certainly not.

Q. Well, even not by itself but in the total [4133] picture, did you consider it? A. Yes, sir. Healy has shown that there is a high correlation between linguistic ability and pathological lying. And that does not mean by any means that people with linguistic ability are pathological liars. But if you are making a total picture and you find this linguistic ability, it helps to confirm your diagnosis, as statistics have shown.

Q. Well, let us see now, Doctor. Healy wrote his book and he dealt with young boys and girls; weren't they the subject of his inquires?

A. Yes, sir.

[4134] Q. And you say that he says that people with linguistic abilities indicate pathological liars, is that what you said? A. No, I did not say that.

Q. Will you tell me. I was confused. A. I said that pathological liars commonly have linguistic ability. Therefore, if you find other symptoms along pathological lines, and, in addition, linguistic ability, you have that as confirmatory symptoms the way you do when you are trying to make a diagnosis of appendicitis or anything else.

Q. As I understand it, so we can understand each other, you have not diagnosed Mr. Chambers as a pathological liar, have you? And I think your answer to Mr. Cross's question was that he had a psychopathic personality, isn't that what you said? A. I believe I don't know whether these are the right words to express it—but I was not allowed this morning to give my analysis of what the basic unifying causes and characteristics of this condition was.

Q. Let me say, Doctor, and not confining ourselves to this morning, but yesterday did not Mr. Cross say, in substance, "Doctor, now assuming all of the facts are true in that hypothetical question which I read to Dr. Binger, and which you have got a copy of, and assuming further that you recall the various writings that you had read of Mr. Chambers, which are in evidence, what is your opinion as a doctor of the mental condition, [4135] within the realm of reasonable certainty, of Mr. Chambers' mental

condition," and I think, Doctor, if I recall your answer, you said that, in your opinion, he is suffering from psychopathic personality without neuroses—I will read it to you:

"A. In my opinion Mr. Chambers has been suffering from a mental ailment known as psychopathic personality without symptoms of psychosis or insanity."

Now, Doctor, that is your opinion, is it not?

A. Yes, sir.

Q. And of course the words that I read there did not include the words "pathological liar." That is quite evident. Now, Doctor, you said that you also had evidence of his childhood or adolescence, the fact that he studied German and French by himself, and also the fact that—I was lost there—oh yes, that he did poor in geometry and I think either failed in geometry or poor in mathematics or something like that. Does that count as a symptom, Doctor, of anything—anything?

A. I thought I had answered that, Mr. Murphy, and that is that—do you want me to explain?

Q. No. What you are going to say is, you took it into consideration in getting at the whole picture, is that what you are going to say? A. Yes.

Q. Doctor, so we can understand each other, here is [4136] what I am going to try to prove: If there are a thousand symptoms, and if to each symptom a doctor attaches the value of zero, a thousand times zero equals zero, isn't that correct? A. Yes.

Q. And that is what I am going to try to prove, so we will understand each other; that the basis that you apply to each symptom is either non-existent or so small so that no matter how many we have, no matter how many times we keep adding symptoms, the sum total is going to be zero. That is my argument.

MR. CROSS: What is the question?

Q. Now the question is, Doctor, what medical significance did you attach to the fact that Mr. Chambers admitted that he did poorly in mathematics and failed in geometry? A. Am I allowed to give my conception after you have given your conception, Mr. Murphy?

Q. I think we will do much better, Doctor, not to. This is a court of law and you are being cross examined, and I think I have the right, Doctor, to if I ask the proper question ask from you an answer yes or no. And you are not entitled as a matter of court procedure to ask me any. But if you don't understand the question you can ask that it be explained to you.

A. I have no questions to ask, Mr. Murphy. I was just wanting to know whether I have the same right as you [4137] have to state what the general conception is, in terms of which every single answer I have to give is related.

Q. All the right that you have, Doctor, subject to the Judge's ruling, is to answer questions. That is the only right you have in this courtroom. But you can ask that any question be explained or you may explain any answer that you want.

Now, Doctor, those were true of the facts concerning Mr. Chambers, and I think you said that another fact that you had was that he was not very much attached to his brother. Do you know what other facts other than the episode at the high school graduation there was? I think you said that comprises all?

A. Yes, sir.

Q. Now, Doctor, you yourself have said as a psychoanalyst that the early childhood facts are rather important, haven't you? A. Yes, I have.

Q. Did you say: "The underlying conception of psychoanalysis calls attention to the impressionability of young tissue"—that means a young person, I suppose, does it, Doctor—"the underlying conception of psychoanalysis calls attention to the impressionability of young tissue"?

A. That is a biological term, yes.

Q. That is the tissue in the baby's mind, I suppose?

A. It refers to the whole organism, sir, the nervous [4138] system and everything else.

Q. Young? A. Yes, young.

Q. "The durability of the impressions received and the determining effect of these upon the whole course of

development. If this is true, and there is sound evidence from biology to support it, the earliest experiences, though unremembered by the subject may be lastingly important. The psychologist must go back to the foetus.''

Now, the foetus is the first organism, that is the child in the very first stages, is that correct?

A. In the womb.

Q. In the womb? A. Yes.

Q. ''The psychologist must go back to the foetus certainly not with the expectation of explaining everything but with the hope of exposing some of the determinants of many things.''

Now, Doctor, when you said that in your book that was a sincere belief, was it not?

A. Yes, sir. I still believe it.

Q. And you still believe it? A. Yes.

MR. CROSS: Mr. Murphy, will you give us the book and the page, because we have difficulty following it?

MR. MURPHY: The doctor says—he admitted it. I don't know whether I have to give you the book and the page. It is one of the things the doctor said.

[4139] MR. CROSS: All right, if you don't want to.

THE WITNESS: That statement refers to research, the ultimate explanation of things, different developments, would require a thorough study from the very beginning. That does not refer to making a diagnosis of individual cases.

Q. Let me ask you this, Doctor: if you had the opportunity and time, wouldn't you tell this Court and jury that you would like to examine Mr. Chambers to your heart's content; give him all of the perception tests that you know; talk to him on a couch and read all his writings? Wouldn't you, Doctor, feel that then you would have a real basis for giving a real opinion?

A. I would have a much better basis.

Q. And necessarily a much better opinion? A. I wouldn't say that necessarily. In psychology, just the way we did in surgery, we would use the word ''sufficient.'' If there were sufficient evidence we would act, we would

operate; and here if there is sufficient evidence we give an opinion. For a scientist it is never enough. It goes on forever. There is no absolute end to his curiosities.

Q. Let us talk about surgical operations, then. Have you ever known of cases where doctors have cut into people and found out that they made a mistake although they thought [4140] they had sufficient evidence? A. A great many.

Q. A great many? A. Yes.

Q. And have psychologists made mistakes at all?

A. A great many.

Q. Have you, Doctor? A. A great many.

Q. Now, you agree, Doctor, do you, that the definition of the term "psychopathic personality" is rather a vague concept? A. If you examine the literature you find a great difference of opinion, and therefore it seems vague. I was trying to explain to Mr. Cross's question that I do not believe that it actually is as vague as would seem on the surface.

Q. Well, can you say that the field luxuriates in a riotus uncertainty, then; let us put it that way? A. I think that is too rhetorical for me.

Q. Well, it is vague, Doctor, isn't it, under the concept of most doctors? You might not think it is vague but most doctors think it is; is that fair? A. I would say so.

Q. Now, Doctor, I think you told us two or three times during the course of your direct examination that the psychiatrist and the psychologist work hand in hand; that the psychologist is actually the man who conducts sort of the laboratory work; he is the man who gives the tests; he is the man who conducts the inquiry generally, [4141] and then reports his findings to the psychiatrist, who makes the diagnosis based upon that test, I suppose, and his own observations; is that correct?

A. That is the conventional way of doing it in clinics and hospitals.

Q. Well, even amongst private doctors don't psychiatrists send a patient now and then to a psychologist? A. Sometimes. Quite often they do.

Q. In other words, it is the psychiatrist who forms the diagnosis? A. No, sir.

Q. I thought you just said that, Doctor? I thought you said that the psychologist is the technician; the psychiatrist gives the opinion. A. The—

Q. Did you say that in words or substance? A. If I said it I had not understood you quite. The function of the psychologist is to make a diagnosis on the basis of his facts and tests. The patient then goes to the psychiatrist, who can change that diagnosis and say, "Well, I found out some more evidence and this is not true," and he might send him back to the psychologist. But the difference is that the psychiatrist treats the patient, but as far as diagnosis goes, the psychologist has just as much to say about it. But if you are applying this to me, Mr. Murphy, I have been practicing psychiatry since 1926, and I was the consulting psychiatrist in the OSS, and [4142] therefore I have had an opportunity to fulfill both functions.

Q. What I was asking, Doctor, was to reaffirm what I thought you had said on at least two occasions yesterday; that that was the usual relationship between those two types of prefessional men; and I think you did say that that is what you said in substance?

A. I think, Mr. Murphy, that the way you repeated it today the word "diagnosis" got connected entirely with the psychiatrist and you made the psychologist just a technician that had no opinion, came to no conclusions, just handed in a lot of figures or something of that sort.

Q. Well, you say he expresses an opinion to the psychiatrist together with the outcome of his test, but the psychiatrist does not necessarily take that opinion as final; is that quite accurate? In other words, the psychiatrist, as between the two, when they are working together, has the final say?

A. If he is in private practice that is his patient, and naturally he has the final say. He might not come to a conclusion himself for nine months until he is through.

Q. Doctor, when you were in OSS and you were the consulting psychiatrist you had the final say, didn't you?

A. As far as diagnosis went.

Q. Yes, all right. Now I think we can go on and get [4143] some concepts pretty clear in the jurors' minds. You said that Mr. Chambers in your opinion as a doctor—oh, by the way, Doctor, generally speaking, psychologists do not necessarily have an MD degree like yourself, do they? A. Not necessarily.

Q. I mean there are a great many psychologists who are not MDs? A. Most of them.

Q. Most of them? A. Yes.

Q. Now, when you said that in your opinion Mr. Chambers had a psychopathic personality without symptoms of psychosis or insanity, does that in substance mean, the latter part of it, that in your opinion he was not psychotic? I think you said that. A. Yes. The word "insanity" does not mean something different from psychosis. Those are equivalent terms. I was trying to explain the meaning of psychosis.

Q. So we can say that in your opinion Mr. Chambers is not insane, as we know that as laymen? A. Yes.

Q. But he has a disorder of character, his personality?

A. It is a mental ailment.

Q. Wouldn't you describe it as a disorder of character?

A. Character and mind are synonymous terms.

Q. So that I would be correct in saying a disorder of character? A. You could say a disorder of character, disorder of mind.

[4144] Q. I didn't ask you that. You could not commit a patient who had such a disorder, could you? A. No, sir.

Q. You could not? A. No.

Q. I have a definition, Doctor, from two doctors—and I don't know whether I am going to pronounce the names correctly—Strecker and Ebaugh. A. Ebaugh, yes.

Q. Are they pretty well recognized in the field?

A. Oh, yes.

Q. Now, the things that you relied upon, Doctor, in forming your opinion about Mr. Chambers, were those

things that you told us yesterday and nothing else, isn't that correct, Doctor? A. No.

Q. The various writings and the assumed facts in the long question? A. Yes.

Q. In other words, let us put it this way, Doctor: You relied on two things; one, the writing, and, two, the facts in Mr. Cross's question, is that correct? A. Yes, that is correct.

Q. Nothing else; in fact, to the exclusion of everything else? A. As far as I was able.

Q. Fine. Now, I think you told us, Doctor, that the writings that you relied upon were six poems and four prose pieces, and those four pieces were "The Damn Fool," "The Play for Puppets", "In Memory of R.G." and "The Devil"; five book reviews in the American Mercury; two articles in Time; and [4145] the translations of "Class Reunion" and the "Scorpion"; and then you also added "Samson and Delilah"; but then Mr. Cross said that that was not in evidence. Had you read "Samson and Delilah" translated by Mr. Chambers?

A. Yes.

Q. But in giving your opinion you have tried to divorce that from your mind? A. Yes, I have.

Q. Now, Doctor, in analyzing those writings did you realize that they were written at different times? A. Oh yes.

Q. Yes? A. Yes.

Q. In other words, "The Damn Fool", "The Play for Puppets", "In Memory of R.G." and "Tandaradei" and the poems were all written either when he was at Columbia or within a short while after; I think the poems are dated 1926. And then the very next writing that you have are the book reviews in 1944; so there is a spread there of about 20 years. Then "The Devil"—that is 1948—two articles in Time, 1948, and then going back, two translations in 1929. Now, you say you realized that there was that split in time that you did not consider in your evidence, so to speak; in other words, you did not have a continuous run of literature? A. No, I did not.

Q. And you said that you considered that absence, did you, in forming an opinion? A. Yes, I did.

Q. You knew, of course, that he wrote every week, let us say, from 1939 to 1948, did you not? A. No, I did not know that.

Q. Well, didn't one of your assumed facts say that he was on Time and wrote book reviews and the cinema, religion, international news, and so forth, for a period of ten years?

[4146] A. I would assume he had.

Q. Well, let us see, Doctor, now. Assuming that those are the facts, wouldn't you say that you read a rather meagre part of a man's writing? Wouldn't you say that—I think the term you people use is a selected sample?

A. A small sample, yes, sir.

Q. A small sample, with that spread of years in there, too. In other words, in the beginning, most of it was in the early '20s and then only a few pieces in 1948 or so. Did those facts disturb you at all when you tried to form your opinion that you had just that sort of selected sample, with so many intervening years with no sample? A. The fact that I found some of the same themes, sentiments and imagery in "The Devil" that I did in the early ones and also others, confirmed me in a supposition that there were some persisting dispositions that went right through the years.

Q. You can say right through the years, Doctor, can you, when you don't know what took place in the intervening twenty years? A. If a disposition is a part of a personality in 1926 and is a part of personality in 1948, it hasn't gone out of a personality in the meanwhile and then returned.

Q. How can you say? How can you say? A. The knowledge of the human organism, sir.

Q. Now you say disposition. If a disposition exists [4147] in the early years, now, what were the facts that you relied upon from which you came to the conclusion that there was a certain kind of disposition in the early '20s? What were the facts? A. What were the facts? On the basis of the writing alone or the whole history?

Q. No. Whatever it was, Doctor, that you had. What were the facts from which you now have told the jury that there was a disposition? I want to get into what the facts are, then I am going to ask you to define disposition, but I think I should first know what the facts are that you said gave to you as a doctor the fact that there was a disposition.

A. The main disposition—

Q. No. Tell me first, Doctor, what the facts are and then define the disposition. A. The facts are, leaving home, the class prophecy—

Q. Well, we don't know what that prophecy was, you know. You don't know, do you, Doctor?

MR. CROSS: Why don't you let him finish his answer.

Q. Do you know what the class prophecy was? All you know was that he was told to give not the prophecy he wrote, in fact did it; but what it was you don't know?

A. Well, we know, Mr. Murphy, that it outraged the authorities enough to withhold his diploma.

[4148] Q. No. Wait a minute, Doctor. Point out if you will—you have a copy of the typewritten question there—where it outraged the authorities. A. He lost his diploma —

Q. Just a minute. Please stick to the facts, see. We are going to have trouble enough unless we get right down to the facts. Now you have used the word outraged the authorities. A. I will take—

Q. And you used the words lost the diploma. Now tell us where that is in the question and we can put our finger right on it. A. I will retract on the word outraged, sir. That was an exaggeration. I think the fact is in the hypothetical question that he did not receive his diploma on graduation on account of this action. Isn't—isn't that true, sir?

Q. I think it is that he did not receive it that day, yes.

MR. CROSS: No, it is not, Mr. Murphy. He said because of this disturbance Chambers did not get his diploma at the time the class graduated.

Q. Well, I used "that day," and Mr. Cross says "on the day the class graduated." There is no testimony, Doctor, that he did not in fact receive the diploma. He did not get it the day the other boys got it, and he did recite a class prophecy which he was told not to read. And [4149] those are the only facts, Doctor, that you can assume. All right, now, you were telling us that was one of the facts. A. That indicated—you want me to stick to the facts. Going away from home, "Play for Puppets", leaving Columbia before finishing his education, abandoning democracy, and atheism.

Q. Those facts, Doctor, led you to believe as a psychiatrist that he had a disposition of some kind or other? A. I would say that for a boy of early 20s that there are a few possible loyalties—one, family, school, college, country, ideology, political ideology like democracy, and religion. Those are six. There is evidence that he repudiated all six. I would call that a disposition to—

Q. A disposition to—what? A. To form an antipathy towards the values of his culture, his society, his community.

Q. Now tell us what disposition means, Doctor.

A. Disposition is a psychological term that refers to a hypothetical structure in the mind, in the personality, which manifests itself under certain conditions in a certain way. In other words, you can't—

Q. Well, can you tell it, Doctor, in ordinary simple—

MR. CROSS: You don't let him finish his [4150] answer.

Q. Were you finished, Doctor? A. Well, I was going to say, Mr. Murphy, that we are not yet able to point to structures in the brain and look into the brain with a microscope, and therefore we can't define in psychological or psychiatric terms, in terms of tangible objective structures, and so we define them in terms of the manifestations of those structures which we conceptualize, and that has been true and always will be true in respect to the human brain.

Q. Doctor, we are trying to learn in lay language if we can what you mean when you use the word disposition. Now I think Dr. Binger admitted that almost every human act can be defined in simple everyday language, every human act. Now, Doctor, can you tell us, a group of lay people, what you mean by disposition in simple language? A. Disposition is the things in a person which accounts for his behaving in a certain way quite often.

Q. Well, now, is it different than a man's will, for instance? A. It may be different.

Q. Well, do you say it accounts for behavior, disposition accounts for behavior? A. It is a hypothesis, Mr. Murphy, that is always made in referring to the brain. If a person acts in a certain way over and [4151] over again you have got to assume that there is some structure in his organism, in his brain, that accounts for this kind of repetitive action. It is like the word memory, for example—

Q. I think I understand, Doctor. So on these six things that you have pointed out to us in the early twenties, or starting with high school, Mr. Chambers exhibited to you a tendency to break down certain things in his head. Would that be a fair but poor summary?

A. I would say to be opposed to, perhaps, or disregard; in some cases it would be disregard and other cases definitely opposed to, and other cases to tear down, undermine.

[4152] Q. All right, now. So that from these writings in the twenties and in the eighteens or so when he got out of high school, and then you saw it cropping up again in 1948 when you read "The Devil" and the other book reviews in 1944, is that what you say, Doctor? A. Yes, sir.

Q. Now did you read, Doctor, the "History of Civilization" in Life Magazine by Mr. Chambers?

A. No. I have not read anything except what is listed there. It was not available to me.

MR. CROSS: It is not in evidence, Mr. Murphy.

Q. Did you read the article in Time on Pope Pius? A. I have not read anything except what was given to me and I have recited all the ones given to me.

Q. I want to point out to the jury all of the things that Mr. Chambers testified to on this trial, and point out to them that you had really a very, very small sample so that they can judge too whether or not your analysis was complete enough. So even though you will have to listen to these subjects, you just tell me yes or no whether you considered them; or suppose I read them off and ask you one question:

Did you read "The History of Civilization" in Life Magazine by Mr. Chambers. The story of the Pope in Time? A. Yes, sir.

[4153] Q. The Time cover story on Arnold Toynbee?

A. No.

Q. The story in Time on the singer Marian Anderson? A. No.

Q. On Reinhold Niebuhr, the theologian? A. Yes.

Q. On Albert Einstein? A. No.

Q. And the following translations: Fifteen Rabbits by Felix Salten; The City Jungle by Felix Salten?

A. No.

Q. Bambi by Felix Salten? A. No.

Q. Mother Mary by Heinrich Mann? A. No.

Q. Cards and Kings by Tralow? A. No.

Q. The Passionate Rebel by Lord Byron? A. No.

Q. Thistles of Baragon? A. No.

Q. Henri Dunant, the founder of the Red Cross? A. No.

Q. The Great Crusade? A. No.

Q. And hundreds of stories in Time from 1939 on, cinema, religion, international news—you read none of those? A. No. Not in connection with this trial. I would like to be able to say one thing in connection with that, and that is from friends of mine who have been on Time and Life in various periods in the past I have been led to understand that these articles are not entirely the work of one man; that there are [4154] research workers and people that correct the facts so as to make sure of the accuracy, and so forth, and it is extremely difficult to tell that any one article in Time or Life is the work of the one man. That may be incorrect. That is one of the reasons why I say I did not ask that a great effort should be made to furnish me

with more material. I examined simply what was given to me.

MR. CROSS: May we have a stipulation, Mr. Murphy, that the only articles that you read off marked as exhibits in this case are Pope Pius and the article on Niebuhr?

MR. MURPHY: Yes, I will so stipulate, and I suppose you will stipulate Mr. Chambers has testified under oath that he is the author or translator of the ones I have read.

MR. CROSS: I don't know about all of them, but they are not exhibits and therefore they could not be presented to Dr. Murray properly.

MR. MURPHY: You won't stipulate?

MR. CROSS: I have not checked all of them.

MR. MURPHY: May we have some time to find these pages?

MR. CROSS: If you give us time to check it?

MR. MURPHY: May we have a few minutes, your Honor, to get the pages in the record?

[4155] THE COURT: How long will it take?

MR. MURPHY: About ten minutes.

MR. CROSS: I will stipulate if he gives me time to check on them all. I know most of them, but I don't think the jury's and the Court's time should be taken if I am willing to have someone check and later state to the jury what they are.

THE COURT: Can we take it subject to correction?

MR. CROSS: Yes, your Honor.

Q. How did you know from the assumed facts, Doctor, that "The Devil" that you placed so much reliance on was not written as a result of some researches of others and editorial work by others and does not contain mistakes?

A. I would not be sure that there was not some help on that. That was distinguished from the Time articles by being a longer article that was signed, and I happen to have read all the books that the article was based on, and I take it that it did not require a great deal of research.

Q. Really, Doctor, you don't think that that required research, that story of "The Devil"?

A. I said a great deal of research and I had read the four books that he mentioned there.

Q. Doctor, don't you know that it is a very, very common practice for authors to have researchers—[4156] all authors? A. All authors?

Q. Don't you know that, Doctor? A. I did not know that all authors have researchers, no.

Q. Well, a large percentage of the well known authors have researchers. You know that, Doctor?

A. Including poets and novelists, and so forth?

Q. I am only asking what you know, Doctor.

A. I did not know that.

Q. But you have no knowledge whether or not the article that you have read entitled "The Devil" was written by Mr. Chambers with or without researchers and with or without editorial correction? A. I do not know that.

Q. Now, Doctor, let me see if I understand again what the perception tests do, or how they help a doctor. I think you said, generally speaking, a subject, if you interview him, you hear him and you put down or learn what he says. That is one method of securing pertinent information, and the second and the third methods are by those tests, and they develop (1) what the witness knows but ordinarily don't tell, and the next is what the witness does not know and what he does not tell; in other words, the subconscious, and the other one what he knows but he does not want to tell, and those tests that psychologists and pyschiatrists have devised they bring out these latter two, and I think you [4157] told us that you have studied these writings that you have described because they reveal to you something in that category that I have numbered 1, 2 and 3 that you can put your finger on as 2 or 3. In other words, they reveal to you either what Chambers knew and would not tell or what he did not know and could not tell. Is that correct, Doctor? A. Also 1.

Q. But you did not attach too much importance to 1, did you? I think you said that the nub is 2 and 3. A. I said that those techniques were devised so as to get 2 and 3, but you also get some of 1.

Q. But didn't you say that was one of the reasons why you were able to do it with regard to Hitler? You said you did not count too much on Mein Kampf but did get a lot

of material from the various speeches because of this technique that you have that revealed No. 2 and 3. A. That includes Mein Kampf.

Q. But Mein Kampf is what he has said. I mean either he could have said anything, 1, 2 and 3 were the hidden things and they are revealed in the writings and speeches. A. Well, that is what Mein Kampf is. That is a writing and it is revealed there too.

Q. The principal one though is 2 and 3? A. Yes.

Q. And you get those by your experience in the use of these tests? A. Yes, sir.

[4158] Q. Now in connection with the facts that you relied upon here, 2 and 3 come from the writings and from what you could pick out of the assumed facts, because the assumed facts are all based, for the large part, upon Mr. Chambers' testimony. There is other testimony in there but for the large part it is Mr. Chambers', is that correct, Doctor? A. If I understand you, yes.

Q. What I am trying to say is that these different categories that you describe as 1, 2 and 3, you have picked them out in this case from two sets of things; 2 and 3 you picked out from the writings and also from the assumed facts, and the No. 1 from the assumed facts only. A. You are making me say something that I do not believe, Mr. Murphy.

Q. I don't want to do that, Doctor. Suppose we start over again: Can we say, Doctor, that you relied upon two sets of things (1) the writings you have described and (2) the assumed facts and nothing else, is that correct?

A. Yes, that is true.

Q. And from both of those things you have been able to learn (1) what Mr. Chambers has said and (2) what he knew and did not say, and, what he did not know and could not say?

A. Those three divisions, Mr. Murphy, are not [4159] appropriate to this question here. I don't make a division that corresponds to this classification in dealing with this material.

For example, if I am talking about a disposition of antipathy against the values of your culture I don't know

to what extent Mr. Chambers was conscious of that at the age of 24. It is obvious that he was to a certain extent conscious, because he did certain definite willed acts, but there probably was a large unconscious element in it, but to what extent it is conscious and to what extent unconscious I cannot say. I cannot put it in those three categories.

[4160] Q. So that there is no sense in my asking you to pick out which were the unconscious? A. I am afraid not, sir.

Q. You can't tell, Doctor, what a man is thinking, can you? A. Can I tell?

Q. Yes. A. At the moment?

Q. Yes. A. If he is talking his thoughts out loud I can tell a number of his thoughts or part of his thoughts, but if he is having more thoughts than he can tell me, those thoughts I am not aware of.

Q. In simple language, you understand what the man says? A. Sometimes.

Q. Well, assuming that you were talking to a boy you met on the street and the boy said to you, "Is that bus green?"—now, what was meant by all of that talk was that you knew that the boy was thinking whether or not that bus was green; isn't that what you mean? You don't mean anything more recondite than that, do you?

A. I will say yes to that question.

Q. You do mean something more abstruse than that?

A. There might be a lot of other meanings—

Q. Yes, but do you know? A. No, I don't know.

Q. In other words, as you sit there on the witness chair or in your office, as a doctor, all you know about a person's mental operations is what he is then telling you?

[4161] A. No, not entirely.

Q. You know something more, do you? A. Yes.

Q. Tell us what more is it that you know? A. He does things with his body that express operations of his mind, and those are used as diagnostic clues.

Q. Give us an example. Supposing you are talking to a man about making a date for lunch on the corner of the street, and he keeps doing that with his feet (tapping)—

what is he thinking about other than trying to agree on a place and time for lunch?

A. He might give indications—not quite that one—although that might be part of it, that he did not really want to have lunch with you; that he felt that this was an obligation or a matter of duty, and he was in a perfunctory way making a date where he was showing—

Q. Well, Doctor, let us suppose he had to go to the bathroom—

MR. CROSS: You asked him what that would signify and you cut him off. I think you ought to let him finish.

MR. MURPHY: I am sorry, Doctor, if I interrupted.

THE WITNESS: It is all right, sir.

Q. Would you continue? A. I think I have said enough to make my meaning plain that the man shows in all kinds of gestures and emotional expressions and [4162] movements of his body certain feelings and emotions that are going on.

Q. And you can tell what those are? A. And you make certain inferences from those just the way you do from speech. Speech, as many people have said, can be used to conceal thought as well as to communicate it.

Q. Doctor, these inferences that you draw, are they correct inferences or are they just inferences? A. They may be correct and they may not be correct.

Q. So that whether you know what is going on or not can be divided into knowing and not knowing? A. Can I explain my answer to this question?

Q. Yes, please, because I am confused. A. Because if you ask me to give a definite answer of knowing or not knowing on any one item, as a scientist I could not possibly say definitely that I know. We don't work that way. We wait for accumulation, a multiplicity of observations, and then the relations of those observations. There are certain things that belong together, and when you find them together—like temperature or high leucocyte count in the blood and a pain in the right lower quadrant—

Q. That might be appendicitis? A. You might say

appendicitis, perhaps. But temperature alone, you don't make a diagnosis of appendicitis on temperature alone.

Q. Some doctors do, don't they, Doctor? A. I don't [4163] know of any doctors who do that on temperature alone.

Q. Doctor, so that the jury can understand your scientific viewpoint, can't you say in words or substance that you do not know, either as a doctor or as a man, what a man is currently thinking about when he is talking? Isn't that a fair assumption, Doctor? A. I would say yes to that in quotations.

Q. Doctor, you said also, if I remember one of your answers, that Mr. Chambers was a glib and fluent talker. Now, what facts either in the assumed facts or in the writings did you get that fact from? A. My memory, Mr. Murphy, is that I used those expressions "glib and fluent talker" when I was describing a psychopathic personality.

Q. Not necessarily Mr. Chambers? A. At that time I was not referring to Mr. Chambers, was I?

Q. I don't know. That was my question. I wanted to know how you would know that, not having seen the man.

A. If you asked me that in relation to Mr. Chambers I would only have two very small pieces of evidence, and I would not rate them highly, and I never included these in my list of evidences.

Q. You would not rate them highly, you say? A. These two little facts.

Q. What are those facts? A. Well, one is that he is a writer who has to write a lot and often, as editor of [4164] Time, and there is a tremendous pressure, and fluency in writing is very often correlated with fluency in speech, but that is a very small matter. The other one is—the other one I would rather put down as, perhaps, ease of telling a falsehood. When he wrote to —

Q. To the Dean? A. —to Professor Van Doren and said, "I told a lie quite simply." That has more to do with glibness in lying than it has with fluency of speech.

Q. But you said you did not rate them very highly?

A. I do not rate those highly. I included that phrase in the description of psychopathic personality because it is

very common, but I have not heard Mr. Chambers talk, I don't know.

Q. You don't know? A. No.

MR. MURPHY: May we have a recess now, your Honor?

THE COURT: Yes.

(Short recess.)

Q. Doctor, you said that one of I believe the characteristics or symptoms or one of the facts that you took into consideration to come to the conclusion that Mr. Chambers had a disposition to be sort of asocial was the lie that he had made to Professor Van Doren, and I was wondering, Doctor, whether in your assumed facts you were acquainted with the entire letter that he had written to the Professor? A. I am sorry, Mr. Murphy, I did not use [4165] that fact as an evidence of his asocial disposition.

Q. Oh, then, you used it for some basis for glibness I think, or something? A. I did say it had a slight connection with it.

Q. Did you have the opportunity, Doctor, of reading the letter? A. No, I have not been shown the letter.

Q. Doctor, I am going to read you the entire letter, and it is in evidence. It is dated September 15, 1924.

"Dear Mark:"—Professor Van Doren was his faculty adviser at the time.

"Dear Mark:

"Perhaps you have returned. I asked Dibble and Neff, but they did not seem to know.

"I have unpleasant news: I am returning to college. I should have warned you sooner had I known where to reach you.

"There are several reasons for the return. I went to see the Dean this morning and gave him the minor reasons. They were the desire of my parents to have a graduated child, my own desire to complete what I had begun, and a wish to specialize in history. I lied to him quite simply and told him I wanted to teach history. After all, what he wanted to be sure was that I would stick, and my major reason is none of the Dean's affair.

[4166] "Indeed it is a new one of my own, which I am content to have entre nous. I have an unconventional partner in this world for whom I care very much, and it is she who is urging me to this reversal. We need to analyze the basic feminine motive in getting me again in harness where, in a way, she can at once guide and encourage. She agrees (and in this I think she is right) that my present job ideally permits me to study. I shall keep it and pay my own way. And I am happy to do what she wishes."

Parenthetically, he was working at the public library at night.

"I tell this as lightly as possible. But you must judge the facts. It is not pleasant to play inconsistent. I have fewer illusions about colleges than when I left. And fewer about the value of education or even of intelligence. I think the level of culture, like the level of folly and evil, remains constant in nearly all generations and our endeavor to screw it up wholesale is a wasteful and revolting debacle. I could name on one hand the boys for whom I think the last four years of college have done a real good. It would take more than two to count over those to whom I have seen it do a real harm. I find that very depressing and, with one or two exceptions, I find the faculty as depressing [4167] as the students. I do not know whether you will be able to understand how much so.

"But I am trusting that I shall have very little time to see these things. I want to carry eighteen points of work;"—

That is a fairly good class program, isn't it?

A. (No answer.)

Q. —"and that, with my job and my other activities, should heap the measure."

A. I was asked to answer that, and the answer is I don't know what eighteen points at Columbia—

Q. Well, eighteen points at Harvard would be eighteen hours of work, would it? A. They don't use the point system there, sir.

Q. —"You will favor me very much if you will undertake my advisorship again. I may have an occasional blank

to sign, but, aside from that, will endeavor to bear myself with rectitude, humility and decorum.

"I have written very little for the past month. All my winter's work now seems to me very thin. It is too personal to be amusing and I strive not to believe I was ever so unhappy. So I have put it by. I have seldom felt so eager and so active. Whether or not I write is a minor consideration.

"I suppose you have been having a wonderful [4168] saunter about Europe. If I drop in a few days hence perhaps you will find a moment to tell me how you are and a little of what you have done.

"I see your book is to come out soon. I am glad.

"Sincerely,

"Whittaker."

Doctor, assuming that that is the letter and that is the instrument in which Mr. Chambers said "I lied to him quite simply," do you think, Doctor, that that could be considered by a psychologist as evidence of lying?

A. Yes, sir.

Q. How would you rate it? Highly? A. I don't understand what you mean by rating.

Q. Well, before you said that there were two facts which you didn't rate too highly, and I was asking you how you would rate that under the general denomination "lie"?

A. I would rate that about medium.

Q. Now, Doctor, when you are analyzing a subject and get into the domain of lying, do you consider the purpose of the lie at all? A. Oh, yes.

Q. In other words, the purpose of a lie, the reason for the lie has a significance to a doctor, does it not?

A. If we can find out what it really is.

Q. Well, for instance, Doctor, the lies that we tell [4169] daily; for instance, a woman says the size of her shoe is 6½ and it is an 8. Do you attach any significance to that at all? A. Just by itself, no.

Q. Well, even assuming that is one of the facts that you pick up and eventually form a total picture, you don't include it at all in that picture, do you? A. I would say

that it was—it would be very peculiar for a woman to say that her size of her shoe was 3 degrees off from what it was, when you can look down and see.

Q. 3 degrees? A. I thought you said 5.

Q. 6½ and 8. A. Oh, I thought you said 5. 6½ and 8.

Q. It would be peculiar you say? A. It depends who she tells it to and whether—

Q. Assuming she tells it to a shoe salesman when she is buying a pair of shoes? A. I would have to know whether she was ignorant or whether she really wanted to buy a pair of shoes, or some other fact.

Q. Assuming that she was a college educated woman, that she wanted a pair of shoes, that her foot size was 8 and she asked the salesman for 6½? A. Well, I suppose that I would infer that she was forgetful about the fact that she had bought other pairs of shoes size 8, a good many of them probably, in the past.

Q. Well, assuming, Doctor, that she was one of your [4170] subjects and that was just one of the incidents that you asked her about, would you consider that as part of the subject matter upon which you would rely in order to form a diagnosis? A. If one of the things I was interested in was memory for practical details, I would consider that was important. If that was not an issue in her case I might consider it entirely insignificant.

Q. Doctor, I take it that perhaps I am wrong that you do not diagnose the patient first without hearing the facts? Don't you hear all the facts first and then diagnose it later? A. Yes, sir.

Q. I mean, it would certainly be wrong medical practice, particularly for a psychoanalyst, to give his opinion in advance of hearing the facts? A. Certainly.

Q. Well, how do you dismiss it? Take this incident of the lady buying shoes; you can't dismiss it, can you, Doctor, right away or— A. No.

Q. —you wait until you get all of the facts?

A. You would hold it in mind to see whether it is significant and relevant to other facts that you obtain as you go on.

Q. And then you would rule them out or include them?
A. Yes.

Q. Yes. And you say it becomes important to learn the rationale, the reason behind the lie, if there is a reason?

[4171] A. Yes, I think that is important.

Q. Suppose there is no reason at all; that is a pretty good sign, isn't it? A. Pretty good sign of what, sir?

Q. Of a good psychopathic symptom. A. That I could not say yes to because there is the difference between the rational reason that helps in immediate social adjustment and reasons that have to do with the imaginations that a man has in regard to himself; and those might be classed, if we have to make a division, as irrational reasons, but they are very important to his make-up.

Now, in this particular case, Mr. Murphy, I would say that that was a very good friendly letter, would dispose me in favor of this man, but knowing that after writing that letter, which was September 1924, that he left Columbia in '25, in the winter of '25, would make a great deal of difference. Here is a man with great fluency of expression and can write an appealing letter, so you trust him. I would say this man will surely finish his education. And then in three months he is out. I would count that as very important.

Q. What were the three months that you added up there, Doctor? A. I am sorry. The term is four months. I was told he ended—he left at the end of the first term, '25, the winter of '25.

[4172] Q. Well, the fact that a man intends to remain in college and then leaves, does that have some significance, Doctor? A. Why, yes.

Q. It does? A. Yes.

Q. Does it have a significance to a psychiatrist or a psychologist when you leave at the end of a term?

A. If it is connected with a great many other instances of lack of persistence and lack of enduring and lasting purpose and loyalty, yes.

Q. Well, let us attach it only to schooling, and the facts are here that the boy is a high school graduate and that he went to college, and that at the end of the sophomore

year he wrote this play, and he left not voluntarily, he was not discharged or expelled; he was told to get out, and then he came back. Would you say that with regard to schooling it showed no attachment there at all or no consistency of purpose? Wouldn't it show just the other way, he had completed his elementary school, high school, and gone to two and a half years of college—that shows a rather strong attachment to learning, it seems to me?

A. Well, after his having left once and then returning, I would regard the returning as important, as an evidence that he had some firmness of purpose or steadfastness, but the fact, after writing that, I would say, appealing letter and apparently sincere letter, to leave at the end of a term when [4173] he only had a little more to carry him through—I would say that, particularly in conjunction with the fact that this man has real intellectual interests and he is of superior intelligence, and therefore college has something to offer him—

Q. Well, most people who attain greatness in after life, when you find out they left in the middle of their college career, does that mean anything at all? Does it mean that had they stayed they would have become better, or something like that? A. I don't think you could say that. You can't generalize it. Give me special cases and tell me exactly what the conditions are and I might be able to make a guess.

Q. You might be able to make a guess? A. Possibly.

Q. Now, Doctor, assuming that he left college at the end of his junior first term to join the Communist Party; that he became interested in that philosophical concept or ideal; when a man leaves college for what appears to him to be a good and sufficient reason you do not attach any real diagnostic opinion to that, do you, Doctor, as a real purpose for leaving? Just change those facts. Assume he had no more money, if his parents were paying, and he could not work, and that that was the reason he left—there is no significance to that?

A. If you want me to assume something entirely different [4174] from what we have in the hypothetical question I might say yes—no more money—perfectly reasonable.

Q. And the reason that you do not attach much significance, Doctor, is because there is a good and sufficient reason behind the leaving; isn't that right, Doctor? A. If it is necessary, yes.

Q. In other words, the reason is there; it is a valid reason; the lack of funds. Mr. Chambers' reason for leaving was that he wanted to join the Communist Party, which he did. He went down and knocked on the door himself. Doesn't that remove it, Doctor, from whatever stigma there is in leaving college, to a doctor?

A. Not to me, sir, because it means abandoning two things at once: abandoning college and abandoning democracy.

Q. Well, assuming that he had a real, sincere reason or purpose, a firm purpose, would you attach any medical significance to the fact that it disagreed with your ideas of democracy? A. I didn't understand that question.

Q. If Mr. Chambers, if you assume, Doctor, that he had a real burning desire to become a Communist because he felt that that was the philosophical approach to all of the world's troubles; assuming that he was sincere in that belief and he went to the Party and joined up, and, of course, left college because he went with the Party [4175]—does that have a medical significance because he abandoned democracy in doing that? A. I would say that in conjunction with all the other breakings of associations, that this is just another one; and considered in relation to the others, it is significant. I do not see any necessity there—if you ask me or tell me that a man decided to commit murder and left college for that purpose, I do not think that I would rate that as a very high motive for abandoning his education.

Q. Well, you would not rate it very high in considering whether or not he had attachments to learning, would you? A. It would mean that he preferred murder to learning.

Q. Yes, but that is a concept that has nothing to do with your diagnosis. If the reason is sincere and rational, that is my point, Doctor—if it is a sincere, rational firm conviction that he is doing the right thing by joining the Communist Party as a philosophical concept, would you

say that it has significance? A. Mr. Murphy, the point I am making is that he shifts; that he is not reliable in his attachments; that he joins the Communist Party and in 1929 he is out of the Communist Party—

Q. Well, we are going to come to that, Doctor. But you say that that break, the break from college to the Party, is some evidence of shifting; can we put it that way?

[4176] A. I would say so, sir.

Q. And do you rate it high, medium or low? A. On the high side.

Q. Now, Doctor, I think you said that there were a number of different types or kinds of psychopathic personalities, and then you listed quite a few different ideas. Dr. Binger called them symptoms or characteristics—is that what you mean too? In other words, you said lying, stealing, drug addiction, alcoholism, and so forth. Are those types of personalities or are they characteristics or symptoms or evidences?

A. They are different forms of behavior. Different types of psychopathic personality are marked by one or another of these types of behavior. And then there are certain mixed types where you find one individual showing two or three forms.

Q. Well, you gave us sort of a rundown on what were the common types, is that correct? A. Yes, sir. I mentioned the commonest forms of behavior.

Q. And you have no evidence here, have you, Doctor, of drug addiction or alcoholism or sexual abnormality? We have ruled those out, haven't we? A. We have ruled out drug addiction and alcoholism.

Q. And not abnormal sexuality? A. I would not rule that out, Mr. Murphy.

[4177] Q. Well, let us find out what the facts are, Doctor. That is rather a serious thing. Tell us, Doctor, the facts that you have relied upon in these two things that I have called them, the hypothetical question and the writings, from which you rely on the diagnosis of not ruling it out. A. I have not included that in my list of evidences or list of symptoms, but I could not exclude it on account of the poem "Tandaradei," which shows, I would say,

fairly clearly to almost any reader an abnormal view or expression of sexuality, and on that account you could not rule it out.

Q. Well, let us see, Doctor, assuming you are right—and I want to go over that answer again—that would be one evidence or one symptom in all of the various things you got, is that right? A. I have not counted it, Mr. Murphy. I have not counted it because—

[4178] Q. You realize what a serious thing it is to say that, Doctor; that a person has a psychopathic personality of the abnormal sexuality type? Are you telling the jury that about this man you have never seen?

A. I have said, I think twice, that I am not saying that.

Q. You just don't want to rule it out of all of the different types of personality because of a poem, is that right? A. I was saying that in my belief Mr. Chambers belongs to a mixed type with principal emphasis on lying, deceiving, stealing and certain other manifestations. That would make him a mixed type. I would not include abnormal sexuality because there is not enough evidence to put him in that class or even include it, and I have not mentioned it, but if you ask me whether I can absolutely rule it out I am not absolutely able to rule it out.

Q. On the facts that you have and those are the only facts we are concerned with, you don't have any independent facts that have been denied to the jury? A. No.

Q. You are relying exclusively on those two things, the hypothetical question and— A. Oh, yes, yes.

Q. You said up at Harvard you hire psychopathic personalities at a dollar an hour. How do you find [4179] them in the first instance, Doctor? A. I did not say that, Mr. Murphy. I am sorry.

Q. I thought you said that you do have—maybe I can get the page—reading from page 4070:

"But for two reasons I have had some opportunity that was a little, perhaps, unusual: one is that in the college population there are a certain number of psychopathic personalities in every college population, and we have been making studies of college students over the years; and in many cases we pay them to come, we pay them a dollar

an hour to come to do certain tests and experiments; and a psychopathic personality is very willing to come and be studied for a dollar an hour. He does not want to be treated because he is all right, but to be studied he will. So we have had a few cases we have been able to study in great detail."

Now, Doctor, tell us, please, how you get these psychopathic personalities to come to your clinic.

A. We don't get the psychopathic personalities to come to our clinic. We go to the employment office and ask for students that would like to take part in experiments, and in the course of those experiments one of the volunteers turns out to be, to some extent, a psychopathic personality. We don't go and look for them.

[4180] Q. Well, those who come at your request, are they necessarily psychopathic personalities? A. Oh, no. We have quite a few—I mean not many of them.

Q. Not many at Harvard? What sampling have you done, Doctor? Maybe we can expand this: how many psychopathic personalities have you found in say the last year at Harvard? A. I have not done any of these researches in the last year. We have just begun in September.

Q. Well, when was the last time that you did?

A. Before the war.

Q. Well, let us say back in 1939, how many psychopathic personalities did you find at Harvard?

A. That question I could not possibly answer. I did not examine the entire Harvard population and determine how many psychopathic personalities there are.

Q. Maybe we could get a sample, Doctor, and then extend it by multiplying it by the number of students.

A. That would not be possible, sir.

Q. Isn't that sometimes done in research? You take the sample and then you extend it by multiplying it by the full total? A. If you do that you have to take what is called a representative sample; that is a certain number of boys from the West and East and different ages, high schools, private schools, etc., etc., and then you get a representative sample, and under those [4181] conditions if you have enough of them you might, with a certain degree of certainty expand that for the whole population.

We do not operate that way at all. We have a selected sample and start with that because they are the boys that are working their way through college, or at least would like some remuneration, and under those conditions we are getting only those boys who do want the money.

Occasionally we operate under other conditions, where we get some who just volunteer just for the experience. We have a great many different ways of doing it but there is no possible way of determining the percentage of psychopathic personalities at Harvard or any other college.

Q. Talking about samples, Doctor, doesn't it become important to get, in order that the complete diagnosis be accurate, as representative a sample as possible? In other words if you took the boys say who are only working their way through Harvard or did your experiments and tests with them and then extended it by multiplying it by the number of students and so forth, that would not be a good diagnostic answer, would it, Doctor?

A. It would be a poor way of finding out about Harvard students. We are not trying to find out about [4182] Harvard students.

Q. But I mean one of the basic concepts in psychoanalysis is the accuracy of the sample. It has to be a representative of the sample in order to come to some real good conclusion? A. No, sir.

Q. Any kind of a sample is all right? A. It depends what you are interested in.

Q. Well, Doctor, the sampling of the men, for instance, at OSS, if you took only 50 men, would that be a fair sample of what the findings were for 3000?

A. I do not see your point, Mr. Murphy, but that is not what we are aiming at.

Q. No, Doctor. What I want to say is just that when you take samples in order to form an opinion you have to take representative samples? Otherwise you are stacking the cards, aren't you?

A. If you are trying, for example in regard to OSS, if it was my aim to make a statement about 3000 men that went through OSS, then I would have to take a large and representative sample.

For example, we examined about 800 of them as a test of the errors and validities of our methods and we thought that 800 was a fair sample out of 3000, but in the case of Harvard students we are not concerned with making any statement about Harvard College or anything [4183] else.

Q. Let us take the example you gave this morning, Hitler. I think you said that you had a fairly complete collection of all the various speeches, and the one book that he had written. Is that correct?

A. I did not say it was a fair sample. I said I had all the speeches that were translated into English in a book. He must have made hundreds beyond that.

Q. But you had a fairly representative sample of all of his utterings, let us say? The point I want to make there,—we won't fence about it—is we have not had enough samples of Mr. Chambers' writings? Won't you agree with that? A. I would agree, as I said before, it is a small sample.

Q. You did consider, Doctor, the application that Mr. Chambers made for a passport in the name of David Breen in 1935 as some evidence of his lying propensities, did you not? A. That was included, yes.

Q. And then I think you said that that passport application had nine false statements on it, or some figure about nine. Now do you, Doctor, in totaling the number of lies that you rely upon break down the application so as to get as many lies in each one or do you consider it as just one false act?

A. Rather one false act.

[4184] Q. And, Doctor, do you assume that the purpose of getting that passport, Mr. Chambers' purpose, in that name, was because he was ordered by his Communist superiors to do just that, and he was furnished by his superiors with birth certificates from which he could put false information corresponding to those birth certificates in the application? Have you assumed those facts? In other words, that he was a Communist functionary who was going abroad to set up a Communist apparatus in London under that fictitious name, do you ascribe to the

fact that he made that false application any real significance if you knew those purposes?

A. I would include it under lying.

Q. You would? A. Yes, sir.

Q. Even though you assumed that it was done pursuant to orders? A. I would consider that being ordered to lie is not a sufficient reason for lying.

Q. Well, assuming, Doctor, that an American soldier is captured and his instructions are to give his name, rank and number, and they press him further from the name, rank and number and he lies from that point on as to where he was previously billeted, what his outfit was, and so forth, would you ascribe to that action of that soldier some symptoms of a psychopath?

A. It is the difference between war and peace, Mr. [4185] Murphy, as I see it; the difference between killing a fellow American and killing an enemy in war.

MR. MURPHY: Now may I have the reporter read my question. I did not quite follow the answer.

(Question read.)

THE WITNESS: My answer was not responsive. Only to this extent, that war has—

THE COURT: I think you should answer that yes or no if you can.

THE WITNESS: All right, sir. Is that psychopathic? No.

Q. It would not be? A. It would not be.

Q. And the reason, Doctor, is that it has behind it anyway a rational reason? A. I would not put it that way. I would say it has a loyalty behind it.

Q. A loyalty reason? Let us leave it that way. All right. Now when Mr. Chambers applied for the job with the Government in 1937, the WPA, when he was still a Communist, I think you told us that the false statements in that application were also evidence of lying and one of the evidences that you considered in arriving at your opinion. Doctor, if you assume that at the time Mr. Chambers did just that he was a Communist, an underground paid functionary of the Communist Party, but that he wanted to

break away [4186] from the Party and that for a period of years just prior to that he had no identity as such; he was living under fictitious names, sometimes only first names, and his purpose in getting a job with the Government was to establish himself, establish an identity, so that if he was found in a barrel some day they would know who he was other than just a man about 35, and that was his purpose in getting that job, and he went to his Communist friends and got their help, Communist friends in the Government, and got their help getting the job, but since he was still a member of the Party he could not tell all of the things truthfully, but he did tell the correct age, date of his birth, the correct city, his age, correct marital status, correct address and the other information which would lead Government investigators to his Communist affiliations he falsified. Assuming those were the facts, Doctor, would you consider that as a symptom of a psychopathic personality—that lying?

A. Are you asking me to assume, Mr. Murphy, that he is a Communist at the time?

Q. Yes. A. And also wants to be an American citizen; that he wants two things at the same time?

[4187] Q. No, not in so many words. He is a Communist, he has not broken yet from the Party.

A. He is a Communist, yes.

Q. But he has trouble with the philosophy and everything else about the dogma, and he plans on breaking, and this is one of the steps in that plan. It is not an overnight thing, Doctor.

A. He is in conflict then. He has got two different aims there.

Q. Oh, no, he has one aim—the aim to break from the Party, and this was one of the definitive steps that he was going to make. In other words he had to identify himself somewhere because if he was found in a barrel of cement nobody would know who he was. And that is why he made that application.

A. Well, as I understand it, Mr. Murphy, he is still attached to the Communist Party, according to your assumption.

Q. Yes, as a member, that is correct. In other words it was like a soldier who was planning to desert; he still had a uniform on but he was thinking two weeks hence, five weeks hence, if "I lay the proper plans, if I get a little money here, if I can get leave," and so forth—it is all part of a plan, if he still has the uniform on, yes. Mr. Chambers was a [4188] Communist at the time, yes, he was; but he was planning his escape, his defection.

Does that lie, then, that he made in the application have a medical significance so that you can call it a lie and from that build it as part of the symptoms of psychopathic personality?

A. I would say yes, sir.

Q. Although you are willing to assume, Doctor, that he had in his own mind a good and sufficient reason for lying? A. You have not explained, Mr. Murphy, to my understanding why he should have maintained his loyalty to the Communist Party at the time he was making out this application.

Q. All right. Let me add something, then, Doctor. Assuming that his only friends at that time were Communists, his only friends were Communists and he went to his Communist friends, who were then employed in the Government, for help; in other words, he couldn't go to anybody else, assuming that he couldn't; and assuming further he could not explain what he has been doing for four or five years. Assuming those were the facts, Doctor, would you say that your opinion would be different?

A. I would say that it was a very highly improbable assumption even if I assumed them.

[4189] Q. Now, Doctor, we are not going to—
A. Oh.

Q. —ask you to characterize the assumptions.
A. Yes. I would not change my opinion.

Q. You would not change it. By the way, Doctor, you do not—I do not think you do—you do not profess to tell us that you can tell which is true and which is false with regard to statements, can you?

A. Which statement, Mr. Murphy?

Q. Any statement. You are not here to tell this Court and jury— A. Oh.

Q. —which part of a statement is true or which is false; that is not your province? A. That is not my province.

Q. Nor have you attempted to so tell the jury? A. No.

Q. Nor have you explained, Doctor, on your direct examination the fact that Mr. Chambers had these handwritten notes in Mr. Hiss's writing and which were copies or paraphrases of State Department documents that passed over his desk, and that he had the typewritten documents which were copies or paraphrases of State Department documents. You have not told the jury on your direct examination any medical explanation for that, have you?

A. That is outside my province.

Q. Outside your province? A. Yes.

[4190] MR. MURPHY: Would this be a good time for adjournment, if your Honor please?

THE COURT: Yes. We will adjourn until a quarter past two.

(Recess to 2:15 p.m.)

HENRY A. MURRAY, resumed the stand.

Cross Examination Continued

BY MR. MURPHY:

Q. Now Doctor, I think that in reviewing some of the evidence here I had got up to the part past the WPA application and the various lies which you say formed one of the bases for your opinion, and I think your testimony was that Mr. Chambers either here or in the grand jury had lied a number of times. Doctor, assuming that Mr. Chambers had lied in the grand jury back in October 1948 when he failed to tell that body when he was specifically asked whether or not he had any evidence of espionage, but then subsequently and after November 17, 1948, when he produced in Baltimore the papers that we referred to as the Baltimore papers, and went back to that same grand jury

pursuant to its subpoena, and over a period of many days in December did, in fact, tell them of the facts of espionage and of his dealings with Mr. Wadleigh and Mr. Hiss. Do you say that the fact that he subsequently told the same body that he had [4191] previously not told—would that have any bearing at all, Doctor, in your analysis of the facts.

A. Yes, it would, sir.

Q. Would it tend to lessen the rating that you would give it? A. Increase it, sir.

Q. Increase it? A. Yes.

Q. So that in your opinion as a doctor where a person does not tell the whole truth when being questioned but subsequently does to the same inquisition, that would increase the medical facts upon which you would rely in order to form the opinion of psychopathic personality; is that correct, Doctor?

A. Are you asking me to assume these facts?

Q. If you will, yes.

A. The characteristic of the kind of lying that goes with psychopathic personality is to tell more from month to month or from year to year, and keep elaborating or stringing it out. The point about this type of lying is that if you tell everything and then no more, that is the end of the drama for the individual, and therefore there is a tendency to elaborate more and more as he goes on; and those facts, as you gave them to me, as I understand it, would tend to increase my rating on this particular kind of lying.

Q. Well, assuming, Doctor, that there wasn't [4192] this drawing out and adding to, but assuming, Doctor, that Mr. Chambers at the instance of a man named Isaac Don Levine went down to Washington within a short time after the Hitler-Stalin Pact in 1939, pursuant to an appointment made by the other man, and saw the chief intelligence officer of the State Department, Mr. Adolf Berle, and there told Mr. Berle of his knowledge of Communist infiltration into the Government but did not disclose the actual treasonable acts of people; and then assuming, Doctor, that a period of years went by, and in 1944, and, say, 1945, he told the FBI when they came to him, he told

exactly the same facts; and then assume further that in 1945 and 1946 when a State Department officer went to him he repeated substantially the same facts; assume further, Doctor, that in 1948 when he was subpoenaed by the House Committee he told substantially the same facts; and assume further, Doctor, that in that same year he was subpoenaed by the grand jury and he told substantially the same facts, and not until December of 1948 did he tell the additional fact, the one additional fact of espionage—would you say, Doctor, that that state of facts that I have given you and asked you to assume would represent the description of the man that you have described as a person who keeps adding and drawing out in a sort [4193] of a drama? It does not quite fit that description, does it, Doctor? A. If you want me to not assume some of the other facts and just assume it as you have described it to me, it does not exactly fit what I have said, but I would have to eliminate a great deal to say "Yes" to that.

Q. Well, assuming that you do just that, that you take my assumptions and disregard other assumptions that you find in conflict, you would have to say that it does not add up to what you have described?

A. Not the way you have assumed it, yes.

Q. Well, Doctor, tell us, if you will, what the facts were upon which you relied from which you said that the facts, at least as you have been assuming them, add up to a person who is gradually adding and adding and adding so that it becomes sort of drama-like? What were those facts that you assumed?

A. I would say that not telling certain things that he claimed to have known until the date you said, which was December 1948, I believe, and then leading the investigators of the House Committee down to a pumpkin patch and then opening—or showing an opening in a pumpkin, I would call that a touch or a flavor of histrionic talent that one with this diagnosis possesses; and I believe that in this trial he has described certain things that were not said before [4194] the House Committee; so I would say that there was another addition.

Q. You see, Doctor, what I asked for were the facts from which you have been able to describe a man as one who keeps adding and adding and adding; and as I understand your answer, the only facts that you have told us are the fact of him leading these investigators to the pumpkin. Now, what are the facts?

A. I think I mentioned two addings—

Q. Tell me. A. One was the adding to the—I am accepting your assumptions now—the adding to the previous facts that he had given when he testified before the House Committee. I understand that you have described that as adding; and in this trial I understand that he has added some more. There are two addings.

Q. Doctor, unless we deal with facts we are going to get off into a realm that we will both be lost in. Doctor, tell us what the facts are. Instead of saying two and then some has been added, suppose we start backwards. Tell us what you say in your assumed state of facts has been added in this trial? What facts were they?

A. There was the story of a trip to Pennsylvania, wasn't there, Mr. Murphy?

Q. Yes, to Erwinna, Pennsylvania, with Mr. Hiss.

[4195] A. I think that was not described before the House Committee.

Q. That is right. A. That is an addition.

Q. Yes? Anything else? A. I think in the hypothetical question perhaps as it stands now, perhaps not; I am not sure about that. But that is an addition. That was my point.

Q. Do you seriously say, Doctor, that that is an addition, to your mind as a doctor, which would cause you to say that it is the work of a man who keeps adding and adding and adding so that it assumes some sort of a dramatic significance?

A. One item has no significance at all. Here is one item which together with other items would become significant. As I understand it, he was asked to give a fairly complete account before the House Committee, and here is an incident that wasn't mentioned. Now it certainly appears on the record.

[4196] Q. Well, could you attribute that, Doctor, to the merely human faculty of not remembering? There is nothing medically significant in not remembering all facts, is there? A. No.

Q. So couldn't you, Doctor, in your analysis have attributed the fact that he did not tell the House Committee about the trip to Erwinna, Pennsylvania, with Mr. Hiss merely to that frailty which we all have of sometimes forgetting some things? A. That is possible if you take each one at a time; but it is the sum total, as I have said before, that counts, sir.

Q. Yes, Doctor, but in adding up the sum total of the facts, don't you give allowance—isn't there a certain amount of give and take where you say, "Well, that is the ordinary absence of a good remembering faculty," or something like that? A. Yes, sir.

Q. Well, Doctor, assuming now that that recapitulation that we have been through were the sum total of the lies that you have relied upon, would that be in your opinion evidence of repetitive lying on the part of the subject?

A. I would include the seven deceptions that I have mentioned and would include the other symptoms, eight or nine of them, that are characteristic of the kind of lying usually called pathological lying that is associated with psychopathic personality.

[4197] Q. Well, Doctor, there is no way that I have of cross-examining you except as to these particular ones separately, and we will come to the ones that you have described as deceptions. But can we drop the ones that you have described as lies now to say that that represents the total of the lies as such; is that correct?

A. Yes, Mr. Murphy.

Q. And would it be correct to say, Doctor, that you do not attach as a doctor any particular finding to that group as such; in other words, you just find it as a fact and then you add it up into the sum total of all the others; is that fair?

A. I consider it in relation to all the others; that I would say that 19 lies to the Government is quite a high

percentage and should be taken quite seriously if other facts are correlated with them.

Q. Now, Doctor, I am going to have to ask you about the 19 lies to the Government. I thought we considered the Breen passport as one— A. Oh.

Q. —and the WPA as one. Do you want to say that they represent a total of 15 or so together, so as to get 19? A. You can take it both ways, depending—

Q. Let us take it the way you took it. How did you get to 19? A. I took the nine false statements on the passport as nine instead of one, and the five false statements [4198] on the WPA application as five instead of one, and two oaths of allegiance to the Government when he was—

Q. On each of those? One on each? One on the Breen, one on the WPA? A. One on each.

Q. Yes. And that is 16. A. And then the three admitted lies either before the grand jury or in this trial. I think that is approximately 19, sir.

Q. Well, so that if we do it the other way and merely say that the lies in connection with the Breen passport were one and the lies in connection with the WPA were another one, making two, we have two lies plus the non-telling of espionage three times before the House Committee or grand jury, and so forth. A. Oaths of allegiance?

Q. I have included the oath of allegiance on the Breen passport. There was the oath of allegiance in the application and one on the WPA. So considering them each as one entity, it would reduce it to five as I count it over a period of—well, you would start with the Breen application 1935, and bring it up to '48; that would be a period of 13 years, five lies.

Would you say that if you were studying a patient of your own and he or she admitted to five lies in 13 years, that you would seriously consider that as some evidence of whatever personality you finally arrived at?

[4199] A. If there were five lies to the Government and it was combined with the deceptions that I have enumerated, and other facts, I would consider it significant.

Q. How would you rate them? A. Moderate.

Q. Moderate. Now, under deception, Doctor, you told us that what was medically significant was the fact that in the Breen application Mr. Chambers used the birth certificate of a man named David Breen, and of course he was not that person. With regard to the WPA application, the withholding of information about having previously worked at the public library and the not telling them about finding the books, and the different names that he had used as a member of the Party. Don't they, Doctor, all fit almost within the other category of lying? In other words, I think you yourself said that lying, deception, and I think you used some other word, as being the genus—

A. I think I used the word discrepancies between his statements and other people's statements like the public library, or between his statements to the FBI as to when he left the Communist Party, as compared to his statements here. In regard to false names, Mr. Murphy, I think that you were not quite accurate in what you said as representing what I have said. You put those false names within the Communist Party. I attach special significance to the two false names that he had before he joined the [4200] Communist Party and the two pseudonyms, and particularly to the six versions of his own name, and I tried to make a point of the fact of the pathological liars that I have seen and known, that four false names was the highest I know. And here we have all together 14. And I think that is a factor to be taken into account.

Q. How many Communist espionage agents have you talked to or examined, Doctor? A. None. The fact that he had four or possibly five false names as a Communist, I wouldn't know how to judge that at all.

Q. Couldn't you just disregard it, assuming it was pursuant to orders? A. Pretty much, pretty much.

Q. The use of the pseudonym as a pen name, do you attach much significance to that? A. Just by itself, no; particularly if it was only one. If there were two, and if he either forgets that he used them—I understand that he testified before the House Committee and also in this trial that he never used any pseudonym. That means he

must have forgotten or he must have tried to conceal that fact; one of those two.

Q. Assuming he had forgotten, what significance would it have? A. An author assumes a pseudonym, such as Dickens or Mark Twain did, and that pseudonym becomes an important part of himself, that is associated with his writings. He does not forget it. He holds to it. It is his literary per- [4201] sonality that he wants to separate from his ordinary everyday personality.

Q. Let us see if we can break that down, Doctor. The pseudonym "John Kelly" was used when he was in his early twenties once, and there is no evidence in the case that he used it more than once. Now do you attach any particular significance to that fact? A. That he used it only once?

Q. That is the evidence in the case. A. And that he forgot it? Which point, sir?

Q. Well, the only evidence that you have on which you are asked to form your opinion as a doctor is that once he used the name "John Kelly" on a play "Play for Puppets" when he was a sophomore at Columbia in the year 1922. Just those facts, Doctor. What medical significance do you attach to them?

A. If you want me to eliminate all the others, I do not attach any significance to any single one, isolated fact, and I would say that once in a lifetime using a pseudonym for a play which you knew was going to be highly objectionable and you wanted to hide behind that name, let us say, I would not say that that was significant on the basis of false names.

Q. Assuming, Doctor, then that in 1944 when he was one of the editors on Time he wrote five book reviews for [4202] a magazine called The American Mercury, and at the request of the editor of The American Mercury he used the pen name "John Land," and although the checks in payment for the fees were payable to him as Whittaker Chambers, would you say that that had any significance, assuming that when he was asked about it he had forgotten that he had done just that? Does that have any medical significance, Doctor?

A. No, by itself it has not any.

Q. Now I think one of the episodes that you included, if my category is right—by the way, you said there was some significance to the fact that when he testified before Congress he used the year 1937 as the year when he broke with the Party, and when he testified here and at the last trial he used 1938. Does that have any significance?

A. I said, sir, if you pardon me correcting, that it was to the FBI that he testified, according to the hypothetical question, he testified it was the spring of 1937. That was the statement I made; not to the House Committee.

Q. Assuming that was the fact; that he told the FBI when they asked him if he broke with the Party in 1937, and the facts were 1938, and the FBI asked him in 1944 or 1945, whatever the year was— A. I would certainly count that as a significant fact in so far as it was a very crucial point, and the discrepancy between those two [4203] statements I would say, taken with others, is worth considering.

Q. Well, let us suppose, Doctor, or assume, that even in the House Committee when he was testifying in 1948 he used the time 1937 on a number of occasions and he used the time 1938 on at least one, right before the same body, could you say that perhaps it was merely a faulty memory, with no other significance?

A. That is conceivable.

Q. Now, Doctor, you attach some significance to the fact that the fact that he broke from the Party, remained in hiding for a year, and that some of the time he slept with a pistol near at hand, and that he came to New York on a couple of occasions, what is it, Doctor, about a person who has been a paid underground agent for the Communist Party who, when he breaks hides? What is the medical significance of that? Is that a normal reaction?

A. Hiding after breaking with the Party? Just hiding? I would say would be normal, although I am not very well acquainted with how much you have to hide and how long. I have not heard of a great many Americans that have been shot and I think that a year's hiding, when they, according to his statements, lay awake all night, along with

a gun, and you are registered under your own name so anyone could find you and you take two or three trips, that seems to me [4204] unusual, sir.

Q. Would you say this, Doctor: (1) On the question of hiding would you submit to the experience of Communists rather than your own experience as an American doctor? Would you rather take their opinion as to just how long you have to hide once you break? You have no experience as a doctor whether one month or two months is normal for that? A. No, I would not know.

Q. And wouldn't you rather yield to a man who has been underground and a member of the Party for a number of years as to just the quantity of time and the length of time to hide? A. You mean the man who is hiding or some objective person?

Q. Either or both. A. A great deal of difference, sir. I mean the man himself has various subjective fears and anxieties, and he might greatly overrate the time or extent of the hiding.

Q. And he might underrate it? A. He might.

Q. And end up in a barrel? I mean he might guess wrong? A. It is conceivable.

Q. Now, if there was a real, honest-to-goodness, natural fear of reprisals, would you say it would be the ordinary healthy thing to be armed? A. I would not known exactly to what extent you would have to be armed every night and sleep by day. I have never heard of it.

[4205] Q. And you said you have not talked to many Communists?

A. No, I have not talked to many Communists.

Q. Have you talked to any? A. No.

Q. Well, Doctor, assuming that the period of hiding was really the matter of a month or two, the actual hiding; assuming, Doctor, that when Mr. Chambers broke from the Party in the middle of April 1938 he, his wife and children, actually hid in a small place near Baltimore for a period of some weeks, and then for a month went down to Florida and got a little house near the beach or on the outskirts of town and stayed there a month, and then came back to Baltimore and bought a house and came to

New York three or four times to get work, would you say, Doctor, that, assuming that the period of actual hiding was only a matter of a month or two, and then the period of being alert or vigilant lasted for perhaps a year, that that would be the natural fear of a man who had broken with the Communist Party?

A. If you want me to assume those facts instead of the ones in the hypothetical question, I would say that from my ignorance of how long you have to hide, I would say perhaps six weeks might be normal.

Q. It is not a question of that, Doctor, but you have had no experience with Communist agents. I think you said that Mr. Chambers sort of had a willingness to give [4206] vent to his imagination and you cited as an example of that the Sandino story when he was editor of or working on the Daily Worker. Now, Doctor, isn't it a rather common thing for biased newspapers to slant their stories?

A. Yes, I would say so.

Q. And I think you will concede that the Daily Worker, a Communist paper, slants its stories?

A. Yes.

Q. Now, Doctor, if Mr. Chambers, as editor, built up Sandino as a hero instead of a thug, wouldn't that be following the Party line and not with any medical significance at all? A. There was no indication there that he tried to find out what kind of a man Sandino was.

Q. Assuming that is so, Doctor. Assuming he made no attempt to ascertain whether or not he was a thug or a hero, but the Party line was to make him a hero, and he followed the Party line—is there any medical significance to that? A. There is some medical significance to that, perhaps, and that is that individuals who are prone to that kind of thing, accept such jobs and do such work willingly and eagerly, that a man who has got an integrity about the facts does not put himself into a position to lie.

Q. I think you are quite correct, Doctor, but I am sure you were excluding all Communists, weren't you?

A. I am not sure, sir. I don't know all Communists.

[4207] Q. Well, you are excluding a great many of them?

A. I think I probably am.

Q. They have no regard for the integrity of the facts; but they are not necessarily psychopaths, are they, merely because they are Communists and that is one of the dogmas?

A. Not necessarily.

Q. Now, Doctor, you said one of the other examples of willingness to give vent to his imagination was the fact that he said Mr. Hiss had a domineering mother; do you recall that? A. Yes, sir.

Q. Doctor, I am going to read to you the testimony from the House Committee, page 669, and see whether in using these facts you would use that as a willingness, an example of a willingness to give vent to his imagination. At page 669, he was being examined by Mr. Hebert:

"Mr. Hebert. Did he have any other brothers or sisters besides Donald?"

They were talking to Mr. Chambers about Mr. Hiss.

"Mr. Chambers. He had one sister, I believe, living with her mother in Baltimore.

"Mr. Hebert. Did he ever talk about her?

"Mr. Chambers. Yes; once or twice, and mentioned his mother. He once drove me past her house, which as I recall, was on or near Linden Street.

"Mr. Hebert. What did the sister do?

[4208] "Mr. Chambers. I don't think she did anything besides live with her mother. Whether he had any more than that I don't know.

"Mr. Hebert. You know he referred to at least one sister?

"Mr. Chambers. He did.

"Mr. Hebert. Do you recall her name?

"Mr. Chambers. No.

"Mr. Hebert. And you don't recall what the sister did?

"Mr. Chambers. No; I don't think she did anything.

"Mr. Hebert. Did it ever come up in conversation that the sister was interested in athletics?

"Mr. Chambers. No.

"Mr. Hebert. Was he interested in athletics?

"Mr. Chambers. I think he played tennis, but I am not certain.

"Mr. Hebert. With the sister now—it is very important—you don't recall the sister?

"Mr. Chambers. We merely brushed that subject.

"Mr. Nixon. You never met the sister?

"Mr. Chambers. No; nor never met the mother. My impression was his relations with his mother were affectionate but not too happy. She was, perhaps, domineer-[4209] ing. I simply pulled this out of the air in the conversation."

Now, assuming, Doctor, those are the facts, would you say that that gives you as a doctor the basis for the statement that he was willing to give vent to his imagination?

A. That is a large general category I was speaking of, and the point here is that he is willing to make a statement which he himself says he pulled out of the air. Now, that is a figure of speech. He doesn't pull it out of the air. He pulls it out of his imagination.

Q. No, you didn't quite hear the whole thing, Doctor. Mr. Chambers says: "No; nor never met the mother. My impression was his relations with his mother were affectionate but not too happy. She was, perhaps, domineering. I simply pulled this out of the air in the conversation."

MR. CROSS: "in conversation."

MR. MURPHY: "in the conversation."

A. "in conversation"—

Q. "in the conversation." A. In the conversation with—

Q. I assume with Mr. Hiss. A. With Mr. Hiss?

Q. Isn't that rather a frank admission that he does not know but he just seems to put his finger on it somewheres back trying to recall some conversation? He says he never [4209a] met the lady; he said he thinks the relations were cordial, affectionate.

A. Yes, I would say that in that whole context it appears that he is making the admission himself that he is guessing.

[4210] Q. Yes. Now, Doctor, in connection with the books, when they—if you assume that it was the Public Library officials who were looking for Public Library books and in searching Mr. Chambers' locker as an employee they found some books there that belonged to the Library but not the books they were looking for, and he had them there, that is the books that they did find, in violation of the Library regulations, you wouldn't necessarily say that that was stealing as such from which you could draw some medical conclusion, would you?

A. I am not exactly certain about what the regulations of the New York Public Library are. If you could—

Q. Assuming that the regulation said that employees shall not take books from the Library nor keep them in their locker, something as trite as that, would that mean that he stole them and, therefore, you would draw some medical significance from that?

A. Not necessarily. He might have planned to return them, and I would only attach significance to it if there was evidence that he had stolen other books from other libraries.

Q. Doctor, assuming that he had taken many books, 50-odd books from Columbia, and permitted the Library officials, the Public Library officials, to come to his house to search for the Public Library books, and they [4211] came upon the many books from Columbia; and assuming, Doctor, that there was no evidence that he intended to sell those books, but assume that he was an avid reader, would you say that that would temper your judgment on the question as to whether it was evidence of stealing?

A. It would give it a higher rating in my mind, sir.

Q. A higher rating? A. A higher rating. That is, I would—

Q. How high would it get, Doctor, if he had stolen them for the purpose of selling them to the book dealers on Fourth Avenue here? A. I would say that if he was a reader-intellectual, he should have more than the usual amount of respect for books and for the demand for books by other readers. And therefore stealing a book on the

part of a lover of books is worse than stealing a book just to sell it.

Q. Well, the fact, Doctor, that he had them doesn't that connote to you that he had respect for them, that he perhaps loved them, the fact that he had them still? That does not show disrespect of books; it might show disrespect for other men who wanted to read the same books; but it doesn't show any disrespect for books per se, does it?

A. No, that was not the point I was making. The point I was making is his total lack of social [4212] responsibility; that if he had no respect for books he would not think anyone else had respect for books and he could not understand why it would be such a crime to take books from a library. But knowing the value of books he should have known the value of books to other people and therefore been exceedingly scrupulous about not taking books.

Q. Be that as it may, Doctor, he did not sell them; they were there when the officials went to get them when they were looking for something else which they did not find; and that was when he was a student at Columbia. Now— A. Was that true, sir? They did find the books while he was a student at Columbia?

Q. No, I think he was at Columbia previously. I forget the year. You mean the year when he worked in the Library? I don't know.

A. The year they found the books, sir. He had left Columbia; he had been out of Columbia for a year and a half, two years.

Q. Perhaps you are right. And that is when they found the books. There was no doubt that they came from Columbia; they probably had the stamp on them.

Now, if those were the only evidences, Doctor, of the concept of stealing that you had in analyzing a personality and they happened during his adolescent [4213] period, his college, or after college, in the '20s, would you say that you would have enough evidence of stealing in making a sum total of the characteristics of this psychopathic personality but nothing more?

A. He was 26 years old, sir; he was a lover of books; he had 56 books from Columbia, 8 books from the New York Public Library. That is a good deal higher than the largest number of books I have ever heard of a college student stealing from a Public Library. I would certainly think that was very significant.

Q. Assuming that that is all true, Doctor, and it happened when he was 26, you are telling us now, when he is 50, what his character disorder is, and you are telling us that this is one of the symptoms that you rely on, something that took place 24 years ago. Now, if that was the only evidence that you had of stealing would you still consider it, Doctor, as one of the characteristics of this man's personality?

A. One of the—I would. And the reason for that is that one of the crucial diagnostic criteria in psychopathic personality is that it is a lifelong or pretty nearly a lifelong illness. The emphasis on repetition is one of the very important criteria for the diagnosis, and therefore the fact that he conspired to steal four or five hundred State documents [4214] afterwards would all fit in.

Q. But, Doctor, my question was, and I was coming to that— A. Yes.

Q. —was whether that episode is evidence of repetitive stealing. And by itself it couldn't be; every word knocks it out, doesn't? A. I would say so, Mr. Murphy. I don't think that a man can steal 56 books at one time. Probably he has to go by a guard in the Columbia Library. He probably couldn't have stolen more than one or two or possibly three.

Q. We are talking about a repetitive pattern and I am trying to prove to the jury through you, Doctor, that there is no repetitive pattern starting from the time he was 26 years old. You start off with the fact that when he was in college he took these books, or when he was out of college a short while, and he had the books—I take it he took them while he was in college—but, then, there is a long period of time. And I say, assuming that you had no evidence of stealing thereafter, can you say that you have the repetitive pattern of stealing? Wouldn't you have to

say "No"; if you start off and say if there is one evidence and you have none thereafter then there couldn't be repetitive stealing? Doesn't that follow? A. No, sir.

[4215] Q. Let me ask you it much simpler. If you have one symptom which happened 24 years ago and no repetition of the one symptom, would you say that that symptom is repetitive? A. You have to describe the symptom to me. In this case, if you will allow me to explain, he went to Columbia in 1920. He left and returned, and left Columbia for good in January 1925. If my dates are correct, in 1927, seven years after he arrived in Columbia, they find 56 books. I think the probability is that he didn't steal more than one, two or three at a time, and that they were stolen perhaps during that course. There is seven years and 56 books.

Q. Now wait a minute, Doctor, let us get that. The mathematics is really too much for me. You said that there were seven years and that he stole the books during the seven years; is that what you said?

A. I did not make that statement. I said that that is a possible explanation.

Q. Well, how possible could it be, Doctor? The man went to Columbia for two and a half years. Don't you have to limit the time, the outside times of the taking of the books to that time?

A. He went for two and a half years and then he returned again in the fall of '24, didn't he?

Q. No, Doctor. I think the facts are that he [4216] went for two complete years and then returned once for the one fall term, making a total of two and a half years. He completed his sophomore year.

A. That—I am sorry, that is not the way the facts are in the hypothetical question. He entered—excuse me; will you correct me? He entered Columbia in September 1920 and in the autumn of 1922, which would be his junior year, he wrote a "Play for Puppets" and it was then that he was asked to resign from his editorship of the Morningside, and then he left Columbia in January '23, which would be in the middle of his junior year, unless he had been dropped.

Q. Well, without getting into the facts, and even using your facts, Doctor, it is only two and a half years at college. A. And then another half year after that in the fall of '24.

Q. Making three years of college. A. Three years.

Q. I think you have six months too much. But I think it is just a total of two and a half years of college. But in any event, whether it is two and a half or three, the outside years are the years in which he could have taken the books and not seven years. Do you say that pattern was formed in there, assuming that he took one or two each time over a period of two and a half years, assuming that is a [4217] fact—there is no evidence when he took them—but assuming that he did just as you say, and then, there is no evidence of stealing after that, none; assuming that there isn't, Doctor— A. Are you counting the New York Public Library in 1926, '27?

Q. Yes, as part of the incident. Assuming that from 1926 or 1925, whatever the year is, up until the present time, there is no evidence of stealing after that time, you can't say that there is a pattern of repetitive stealing, can you?

A. I could say that there was a pattern of repetitive stealing, and I don't know whether there is one now or not.

Q. Now, what you have relied upon in your assumed state of facts is that Mr. Chambers stole State Department documents or was in a conspiracy to steal them with others, and therefore the pattern is repeating. Are those the facts, Doctor?

A. That he received, yes, yes.

Q. He received stolen documents? A. Yes, sir.

[4218] Q. Well, Doctor, does it make any difference at all in your conclusion if the facts were that only two thieves stole papers and gave them to him, and he returned them overnight, either that night or the following night, and at no time were the papers ever lost or in his possession longer than that one evening, and that was only for the purpose of photographing them and returning them—would you say that that nevertheless was the repetitive symptom of stealing? Assuming he wasn't the thief. A.

I would say that that went with the whole picture, that a man who has stolen in the past is inclined towards accepting assignments in which stealing is involved.

Q. Well, Doctor, assuming that he accepted the assignment to be an espionage agent and to induce or conspire with the Government employees for them to get information for him as a Communist, and that they did, in fact, steal or take papers from the State Department, and give them to him—would it make any difference, Doctor, whether he had previously stolen any books or not if that was the plan?

A. I don't know exactly what you mean.

Q. Well, you said here is a man who was inclined to steal because he had this past history back in 1926.

A. Well, he had already shown a disposition for [4219] stealing. Therefore, if there was an assignment of a job that was offered him that involved stealing he would fit into it more easily than another man who would say "That is not my kind of a thing; I will do something else."

Q. Well, Doctor, assuming that it was not for the purpose of stealing the documents but merely stealing the information, the knowing that was imprinted on the documents, and he had the active cooperation of Mr. Hiss and Mr. Wadleigh—would that change your opinion, Doctor; not stealing the books but just stealing the information so that it would, in fact, be espionage?

A. That would be like stealing the books out of the Library so he could get information from the books and not caring to sell the books but getting the information from the books.

Q. Well, assuming he was told to get information for Soviet Russia, and he was to pass on the information, which would be different than absorbing the knowledge which he read from the books themselves, wouldn't that make a difference, Doctor?

A. That might make some difference in isolation from everything else.

Q. Now you said, Doctor—I think I have the correct quote—"The recordings of these acts over the years is an example of a lack of learning by experience [4220]

which is very characteristic of the psychopathic personality and not learning by experience as a result of a deficiency in consciousness and shamelessness.''

Is that substantially correct, what you said?

A. I said conscience.

Q. Conscience? A. Yes.

Q. And then you gave as an example of the lack of learning by experience, which is very characteristic of a psychopathic personality, the fact that he went to Williams and stayed only two days. A. No, I did not put that under that heading.

Q. Did you say that he left the Party in 1937 where actually it was 1938 was an example of that?

A. No, sir.

Q. Supposing you tell me what you say are the facts from which you say Mr. Chambers shows a lack of learning by experience?

A. That quite a few of the actions and dispositions represented by the actions that we have a record of in his 20s are also evidenced in his more recent behavior; and we have—I mentioned the lies which come up very close to the present time; the deceptions that come up very close to the present time; I am including, of course, stealing documents as coming up fairly close; and I am including the eccentric acts that have come up [4221] quite close; and the dispositions that are shown in, for instance, ''The Devil'' which is 1948. And what I mean is that right through that whole period one sees evidences of the same kinds of dispositions.

Q. Now, Doctor, I tried to write down what the facts were that you were telling me, and the only two facts that you said were stealing and ''The Devil''—you used the words ''lies, deceptions, eccentric, disposition''—you see, Doctor, it helps us if we can put our finger on what you say the facts are from which you say Mr. Chambers had not learned by experience, and then we judge, or the jury judges whether that is an example of learning by experience.

A. Yes?

Q. So tell us the lies and deceptions and the eccentricties—whatever the eccentric acts are—from which you say he has not learned by experience.

A. Well, I will take the first lie and the last lie, if you will. The first lie was in 1924 to Dean Hawkes; the last lie was in this trial here or before the grand jury. Those are admitted lies.

Q. Let us analyze the last lie. What was the lie before this jury, Doctor? A. In this trial here?

Q. Yes. A. I am not saying that it is in this trial. I said it was either in this trial or before [4222] the grand jury.

Q. In other words, if it was one fact, and it had to be true either here or in the grand jury, and he admitted it was true here and he had told a lie to the grand jury, so it is not here.

A. He made the statement, as I understand it, in this trial, he said "Yes" to the question if he had lied three times, either before the grand jury or in this trial.

Q. Mr. Cross said: "If that is true you either lied here or lied in the grand jury," and the witness said "Yes." A. Yes.

Q. In other words, it could not be true in both places. A. Yes.

Q. Now, you say where a man lied in 1924 and lied in 1948 that is some evidence that he does not learn by experience; is that what you say, Doctor?

A. I would say—I am leaving out the things that go in the middle—I assume you don't want me to recite everything all over again?

Q. I want you to name each one. A. Everything we have been over?

Q. Doctor, you see we can't tell whether you are accurate when you say he didn't learn by experience. You see, you have come to a medical conclusion, and [4223] the jury is competent to determine whether a person lies, or a person learns by experience; and I want to know the facts upon which you say that this man has not learned by experience, because he has lied repeatedly. And you have told us the two outside incidents, one in 1924

and 1948. Now tell us all of the lies from which you come to that medical conclusion.

A. The ones we have been over, you mean, in 1935, application for a passport—do you want me to go over those?

Q. That is the Breen passport? A. The Breen passport; and the application for a job with the WPA.

Q. That is right. That is 1935, 1937.

A. In the fall of 1937.

Q. The WPA, yes. A. Yes. And then at those times the oaths of allegiance before coming in.

Q. They were at exactly the same time.

A. And then these lies that we have just mentioned either before the grand jury or in this trial.

Q. Is that all, Doctor? A. On lies, yes.

Q. Now, on that you have told us you have come to the conclusion because he told his faculty adviser he lied quite simply when he didn't give all of the reasons to the Dean; that when he got a false passport 11 years later on directions from his superior; when he applied [4224] for the WPA job in order to establish an identity; and when he testified before the grand jury and did not tell about the espionage activities of Mr. Hiss in October—that represented to you a pattern of repetitive lying from which you form an opinion as a respected doctor in your profession that the man is a psychopathic personality and does not learn by experience?

A. No, sir—

Q. In all fairness— A. —no, sir, I did not say that, sir.

Q. Let me see, Doctor, if we can summarize it: Is not the medical concept of repetitive lying the pattern of a boy or girl, a young man or young woman who constantly, day in and day out, ad infinitum lies and lies and lies, for no apparent reason at all, isn't that the concept that doctors have from which they form the opinion that there is a repetitive liar and he gives significance to that of being a psychopathic personality?

A. You have drawn a very extreme picture. That oc-

curs in childhood. You get that kind of picture in childhood, but I have never known that picture in an adult.

Q. Do you say you have it in the adult here, Mr. Chambers, age 50, the pattern of repetitive [4225] lying? If you do we will go to another subject.

A. Look, Mr. Murphy, you are talking, as I understand it, on a statement I made in regard to learning by experience.

Q. Yes. A. I am not limiting myself to lying.

Q. Yes, but as far as lying goes, that is what you relied upon? A. Yes. I find him lying in 1924 and I find him lying within a year.

Q. All right. So he does not learn by experience because of that, at least in part. Now what were the deceptions that formed this pattern of not learning by experience?

A. Well, we have discussed those. The first one, which I did not include at the time I went over these, because it is a very special kind, and that was deceiving the school authorities about not reading first version and then suddenly, on graduation, by reading the prohibited version. Deceptions began shortly after that in the way of false names; Charles Adams and Charles Whittaker. And then they went on from there. We have discussed the WPA application. We have discussed the discrepancies in his statements in regard to the books found in his locker in the New York Public Library. Those are more recent ones.

Let's see: the one on the Public Library I think [4226] that is in this trial. I am not quite sure and I think also his statement that he had not used a pseudonym and then admitting to "John Land" was in this trial, so you are coming up fairly close to the present. The class prophecy was in 1919 and here we are in 1950 now—1949.

Q. Those are the facts upon which you say there is a pattern of deception?

A. I don't suppose that you want me to mention all of them. We have already been over three or four others like the discrepancies of when he left the Communist Party, and so forth. I am not—

Q. You are under the category of deception. Do discrepancies fit under that? A. Yes. I have lumped deceptions and ommissions and discrepancies under one category and put seven instances of it.

Q. And the 1937-1938 is one of the instances of discrepancies? A. Yes, sir. There is a good deal else under this same category. The eccentric acts that started again—

[4227] Q. What eccentric acts? Would eccentric acts be somewhat similar to bizarre? Dr. Binger used that expression, "bizarre behavior"? A. Yes, sir, the same thing.

Q. What are the eccentric acts? A. Do you want me to go over all those again?

Q. That is the only way I am going to be able to question you, Doctor. A. Well, I went over them yesterday, but I will do it again: the reading the class prophecy before the various authorities who had prohibited it—

Q. Now we have that under deception. Does it fall under both? A. It falls under both and still under another heading—the going to Williams and leaving impulsively in two days and then writing a letter to some name, unknown fictitious name, and asking the letter returned to him; returning to Columbia in 1924 and saying that an unconventional partner wanted him to finish his education; taking Ida Dales under his mother's roof to live with him for a year; leaving the typewriter in the subway and saying he had done it to forget the past; the pumpkin incident, and also the way he has offered information, and—

Q. I didn't understand the last; the way he has offered information? A. Well, we have already been over this twice, but it is the way that at one time he gave a [4228] small amount of information and then later gave more information; and his statement that he was dedicated to destroy Communism, does not seem to me to conform to the fact that he did not give all the information that he said he had in 1939.

Q. Whether it conforms or not, it is nevertheless an eccentric act? You were giving the incidents of the eccentricities? A. Yes. I assume you don't want me to re-

peat everything that I have said before for everybody, but I can, but I mean with "eccentric" I include histrionic and spectacular things, and the thing that a self-dramatized individual would do.

Q. Doctor, you said he left Williams impulsively. Is that "impulsively" one of your own facts or have you culled that from the writings or the question? A. I think that in the hypothetical question it said he left at midnight to catch a train to Troy, whereas he had just previously chosen some furniture for his room, and here is a man that apparently on one day gets furniture for a year, and then we find him on the midnight train. I think "impulsively" might be putting a little something into it. I could have changed it if I said "suddenly" "hurriedly."

Q. Doctor, assuming that the facts were that he decided that Williams was not his place; that it was not the correct social order for him and his family and means, [4229] and after being there two or three days he decided to leave, and he thought he could get some help from reading the Bible, and he forgave a dinner, supposed to be a freshmen dinner, to read the Bible and decided to go, and he left at midnight because there was a midnight train. There is nothing bizarre about that, Doctor, is there?

A. I would say yes, sir. I would not use the word "bizarre" quite, and I did not.

Q. You would rather use the word that that was eccentric?

A. Yes.

Q. Can I say this, Doctor: that even all the actions that you describe are eccentric, does it have any relevancy at all towards whether a man tells the truth or falsehoods?

A. It has relevance to the diagnosis of psychopathic personality. If the man has the psychopathic personality of any degree then he is more liable to lie and less dependable in his statements. There is a high correlation between those.

Q. Now Ida Dales: Assuming, Doctor, that he took Ida Dales as a common-law wife; just assume those facts by themselves and leave out the mother's home, and the year was in the 20s, and assuming that that practice was

condoned by the Legislature, would you say that that was eccentric?

A. No. The eccentric part is—

Q. Do you mean to the mother's house? A. Taking to [4230] the mother's house.

Q. Assuming, Doctor, that his mother asked him to, saying that, "I have just lost a boy, your brother, by suicide, and I don't want to lose you, and bring the girl with you." A. I would say both the mother and the son were eccentric.

Q. Do you know many eccentric people? A. Quite a few.

Q. Now, you were able to form an opinion then, Doctor, about the mother merely because she asked the boy to do that, and you had no other facts about the mother. Do you often form opinions on people with such little facts? A. You forced me to give some answer, Mr. Murphy. The answer to most of your questions would be that the facts that you give me are so limited that no statement is justified, and here I have to say something. Of a number of possibilities I took the most possible.

Q. In other words, Doctor, you are not now being willing to change your opinion about Mr. Chambers' mother?

A. Yes. Give me some more facts about Mr. Chambers' mother and if they don't fit into her being eccentric I will change.

Q. In other words, you want me to disprove it, is that right, Doctor? Like the man who said, "The moon is made of green cheese. You disprove it." Don't you want to [4231] apologize for calling Mr. Chambers' mother an eccentric?

MR. CROSS: I submit he has not called Mr. Chambers' mother an eccentric.

THE COURT: I suggest we proceed with the next question.

Q. Now, Doctor, when he used the pseudonym "Charles Whittaker" when he worked for his father during the time he got out of high school and went to college, did

you say you attach significance to that? A. Together with the other 13 names, yes, sir.

[4232] Q. And in counting the 13 names I think you included the names he used in the Party? A. I did, yes.

Q. Now, didn't you tell us—was it this morning—that you did not attach too much significance to those names? A. I do not attach too much significance to those.

Q. And I suppose you don't attach, by itself, too much significance to the Charles Whittaker, where he did it pursuant to his father's request? A. I wouldn't—the same answer. That by itself, if it is true, that his father wanted him to have a false name, I would think that was a very unusual fact in itself. To me, I just have not known any father that asked their son to take another name.

Q. Well, you heard of a man named Herbert Hoover, haven't you? A. I have heard of him, yes.

Q. And do you know what name his son assumed when he started to work? A. No, I don't.

Q. Do you know whether or not he used his own given name or do you know whether he used some other name so as he would not be riding on his father's reputation? A. No, I can see what the answer is, but I don't know it.

Q. But you would not attach any significance to that? Wouldn't it be rather praiseworthy for a young man to do that?

A. He had a special reason in—his father had a special place, a special distinction. Was that true for Mr. [4233] Chambers' father? I didn't know.

Q. Yes. His father was a sort of boss in an art department of an advertising company and young Mr. Chambers came to work there in his father's section of that advertising company, and at his father's direction he used his mother's maiden name so as not to be accused of nepotism or favoritism. Wouldn't that have some significance, Doctor, to which you could say, "Well, there isn't much to that"? A. Those are the—

Q. Assuming that they are. A. Oh, assuming that those are. That would make some difference.

THE COURT: Mr. Murphy, I think it is pretty close in the room. We had better take a recess.

(Short recess.)

(Jury not present.)

THE COURT: One of the jurors reports that she is not feeling well and would like us to adjourn.

(The jury came into the courtroom.)

THE COURT: Mrs. Condell.

THE FORELADY: Yes.

THE COURT: I understand you sent a message that one of the jurors is not feeling well.

THE FORELADY: Yes. Mrs. Feinstein isn't feeling well. She is under the doctor's care. She has a very bad cold.

[4234] THE COURT: Yes. So I think we had better adjourn.

THE FORELADY: Well, I don't know whether—

THE COURT: Do you think we should adjourn? Do you feel badly?

JUROR NO. 5: (Mrs. Feinstein) If it is not too much. I have been to the doctor last night; he really didn't want me to come in today, but I did not want to disrupt the court.

THE COURT: You feel badly, do you?

JUROR NO. 5: I feel very badly.

THE COURT: I think we had better adjourn until Monday, don't you?

THE FORELADY: Yes, I think so.

JUROR NO. 5: Thank you.

THE COURT: Then we will adjourn until Monday morning.

THE FORELADY: All right. Thank you.

THE COURT: We will adjourn until Monday morning at 10:30.

(Adjourned to January 16, 1950, at 10:30 a.m.)

[4235] New York, January 16, 1950, 10:30 o'clock a. m.
Trial resumed.

HENRY A. MURRAY, resumed.

Cross Examination Continued

BY MR. MURPHY:

Q. Doctor, when you said that one of the symptoms of eccentric acts of Mr. Chambers was the bringing of Ida Dales to the home of his mother, I think we agreed that just living with her as a Communist wife, both being Communists, was not eccentric. I am going to ask you to assume, Doctor, that the following questions and answers are true, and I am reading from Mr. Chambers' cross-examination at the last trial:

"Q. And did you not say under oath that the reason that your mother permitted this woman to live there"—

MR. CROSS: Just a moment. I have not any objection to Mr. Murphy assuming anything but I submit he should not read as evidence testimony that has not already been introduced.

THE COURT: At this trial?

MR. CROSS: Yes, your Honor.

THE COURT: Yes, I think you are right.

MR. MURPHY: Can I say to the witness "Assume the [4236] following is true," your Honor?

THE COURT: Yes.

MR. CROSS: But I assume your Honor will say to the jury that this is no evidence before them.

THE COURT: This is a mere statement to be assumed by the witness.

MR. MURPHY: Correct.

Q. "Q. And did you not say under oath that the reason that your mother permitted this woman to live there with you in this illicit releation was because she had lost one son and did not want to lose another?

"A. That is right.

"Q. In other words, it was that pressure which was brought to bear on your mother to force her to take in this indecent mistress of yours, isn't that right?

"A. It was not.

"Q. What? A. It was not pressure.

"Q. Not pressure? A. No, the suggestion came from my mother."

Assuming, Doctor, that those were the facts and circumstances, under which Mr. Chambers brought that lady to his mother's house, would you say that nevertheless it would be an eccentric act on his part?

A. I would think it was less eccentric than I had said before. I would use it more as an example of [4237] insensibility to the feelings of other people.

Q. Even if you assume, Doctor, that the request was from another person; in other words, if you assume that the request came from his mother you would still regard it as a symptom of the insensitivity to the feelings of others? A. I would think it was. We have to deal with probabilities, Mr. Murphy, here and I would think that it was highly improbable that his mother actually desired this.

Q. Oh, well, Doctor— A. It was a question of two evils, wouldn't it be?

Q. Doctor, you have to assume that it is true. You just assume that it is true, not whether it is improbable or not; assuming that it is true—you are not passing on the truth or falsity of anything here— A. Well, then, would you ask me to assume behind the statement of his mother what his mother's motives were, because I cannot answer that unless I know why the mother said that.

Q. Well, assuming, Doctor, that his mother further said that she had lost one son and did not want to lose another; assuming that was the fact, plus the assumption that I asked you, would you say nevertheless that that represented either an eccentric act on the part of Mr. Chambers or at least a symptom of his insensitivity to the [4238] feelings of others? A. I would say that if your son lived in other quarters besides your house, you were not losing your son. I don't think the idea of losing your son is the critical one in this particular question.

Q. Well, Doctor, without trying to learn where the truth is, assuming those were the facts, assuming that

Chambers' mother did in fact say that; assuming further that he did, in fact, pursuant to her request, come to her house with his mistress or common-law wife, would you say that those acts would be eccentric or at least manifest an insensitivity to the feelings of others?

A. I have to take the matter of grouping the eccentricities under your assumption?

Q. Yes. Would you say they would still manifest a sign of insensitivity to the feelings of others?

A. Yes, sir.

Q. Did you know that Dr. Binger said that on those assumed state of facts he would not consider it as a symptom of insensitivity to the feelings of others? A. No. I do not know Dr. Binger's testimony.

Q. Now, Doctor, as I understand your testimony, you said with regard to the pumpkin—maybe I had better read it. Reading from your testimony on page 4078:

"Hiding the microfilms in a pumpkin, not the fact that he hid them in the pumpkin, just that, [4239] but the fact that he hid them in the pumpkin prior to the arrival of the investigators, just prior, and led the investigators down to the pumpkin and showed them the pumpkin. There is a flavor of the spectacular in that to me as I see which is unusual."

Now, Doctor, assuming that Mr. Chambers did not put those microfilms in the pumpkin just prior to the time when the investigators came, and assume that he did not lead the investigators to the pumpkin, would you say with those assumed facts that it would nevertheless be, I think your phrase is, "spectacular"?

A. Would you tell me how many days, Mr. Murphy, prior—by "just prior" I meant a couple of days—do you mean a couple of weeks or something of that sort?

Q. Let me read you Mr. Appell's testimony. Mr. Appell is the investigator from the House Committee. Assuming that those are the facts, Doctor, reading from page 828:

"Q. Now, will you tell the Court and jury what you did, what Mr. Chambers did when you got to the farm?

"A. When we arrived at the farm—and I might put

in here that Mr. Chambers accompanied me only to Baltimore. Mr. Chambers' car was in Baltimore. He drove from Baltimore to Westminster in his own car.

"Q. Then you followed in tandem? A. We met him at [4240] Westminster and the two cars proceeded to his farm.

"Q. In other words, you met in the little city of Westminster and then went one behind the other out to the farm? A. That is right, we followed him.

"Q. And when you got to the farm will you tell us what you did? A. We both parked our cars by a barn at the rear of the Chambers residence, proceeded down towards the house along a footpath. When we got almost to the house Mr. Chambers walked to the left into grass, trees there; it was dark; he could not see where he was walking to; immediately came out, and we went into the Chambers residence. Mr. Chambers looked for a flashlight or something and found one, but it didn't work. In the back there was a light, on the back porch, and he lit that, and we walked out to what was a pumpkin patch. Mr. Chambers felt around, as I remember, I think two pumpkins, and then he picked up a pumpkin, removed the top from it and said, 'This is what you are after,' and we reached into it and removed three cylinders and film which was in wax paper."

Assuming those are the facts, Doctor, and assuming further that Mr. Chambers had these articles in his house for a few days and moved them from place to place and then that day, in the morning when he went to Washington to testify in some hearing he took them out of the house; [4240a] he was going to Washington, and put them in the pumpkin, and went outside on the back porch—assuming those are the facts, plus the facts I have read, would you still say that that was spectacular?

A. As I understood your reading Mr. Chambers did lead the investigators to the pumpkin patch. Was that true?

[4241] Q. Well, there is no word about leading. As I remember the facts, the man said that they went into the house, he looked for a searchlight and he found one and

that wouldn't work; there was a light on the back porch, he lit the light on the back porch and they went to the pumpkin patch, and he felt around, and said, "There is what you are looking for." A. Could they have found the pumpkin without Mr. Chambers?

Q. Doctor, just assume those facts— A. Yes.

Q. If you say you can't answer, why, we can pass to something else. A. Yes, I think that makes it a little more spectacular with the light, electric light at night, and putting in immediately before that same day—I thought it had been there two days, and I did not realize that they had to go at night.

Q. I am not too clear, Doctor about turning on an electric light. You don't claim that turning on an electric light on the back porch is spectacular? A. No, no. I was —it was the other item, that he looked for an electric light, searchlight, and apparently from that testimony he would have used the searchlight if he could have found it; and I think leading investigators out at night to a pumpkin patch with a searchlight is quite dramatic.

Q. Assuming, Doctor, that he was served with a subpoena that he had to honor forthwith—the subpoena [4242] says, "You are required to produce all sorts, and such and such that you have," and to make sure that it would be produced forthwith the agents accompanied him right to his farm. Do you still feel that—doesn't that remove it from the spectacular, Doctor, really?

A. I don't know exactly what you are trying to get me to say, Mr. Murphy—

Q. Doctor, I only want you to give us your best opinion as to whether or not you considered those facts, those facts that I have asked you to assume as spectacular facts which you as a doctor used in diagnosing Mr. Chambers. Now— A. I am afraid that is, sir. I would only have to compare it to the possibility of putting the microfilms in his pocket and without any drama or searchlight or pumpkin patches hand them over. I haven't understood why that simple procedure was not possible. And I am only comparing it to what I would regard to be a relatively normal form of behavior.

Q. You thought that perhaps the normal standard, as you view it, would be for him to have kept them in his pocket while he went through Washington, in these three tin cans, and the undeveloped strips of film, while he went there to testify in Washington, having nothing to do with that particular matter—that that would have been what everybody would have done? Is that what [4243] you mean by comparing it to the normal?

A. No, I would say at the time that he was asked to supply this evidence that instead of hiding it in a pumpkin patch he would have put it in a bag or whatever was required and given it to whoever was supposed to take it.

Q. Doctor, he was not asked to supply it; he was not asked to supply any information until he got to Washington, and then somebody over there serves him with a subpoena and said, "Let us have everything you have got"; and to make sure that they got it quickly they sent two men with him so that they could bring it back that night, and it was all at night, so that you would have to get into the use of lights or searchlights. But, nevertheless, you say that was a deviation from normal procedure?

A. I would, sir.

Q. Now you also said, as I remember it, Doctor, that when Mr. Chambers testified that he was a better Communist than Stalin that that was evidence of some grandiosity—he was exhibiting some symptom of being self-centered or something. Isn't that your testimony, that that is an evidence of a psychopathic personality, a person who has grandiose ideas about himself?

A. Yes, sir.

[4244] Q. Did you know, Doctor, in your hypothetical question that that was brought out during cross examination?

A. No, I was not told that.

Q. Well, assuming now, Doctor, that I ask you to base your opinion upon the testimony of Mr. Chambers on that point, and I will read you his direct testimony and then read you the cross examination, and assuming that it is true, from page 103:

"Q. And in 1929 what happened? A. In 1929 the Stalinists took power in the American Party.

"Q. And what group had you been with, or were you in the middle? A. I was in the middle; indeed had favored neither group in the Party factional fights.

"Q. For our information the other group was called— A. The other group was called the Lovestoneites.

"Q. That was after J. Lovestone? A. J. Lovestone.

"Q. What did you do during that sort of time, that sort of change in power? A. I left the Daily Worker.

"Q. And then what did you do? A. I went to Chicago for a brief time to consult with a friend who was also expelled from the Party at that time.

"Q. Well, were you expelled? A. No, I was not. The 'also' was incorrect. I walked out of the Daily Worker, in disgust at what was happening in the Party.

"Q. You did not divorce yourself from any philosophy you [4245] had about it? A. No. I was out of the Party for two or three years but I remained a Marxist. There was no change in my basic philosophy. I considered myself a better Communist than the Stalinists, in fact."

And then on cross examination—assuming we just stop there, Doctor, where he said he considered himself "a better Communist than the Stalinists, in fact." Would that be some evidence—

A. No, I would throw it out entirely.

Q. All right. Now, on cross examination, Mr. Cross, commencing at page 357:

"Q. Did you say at that time that 'There was no change in my basic philosophy'? A."—

MR. CROSS: Don't you want to start that where I called his attention to the fact that the record in our opinion was incorrect in the use of "Stalinists" instead of "Stalin", so that the jury will understand the setting?

MR. MURPHY: Perhaps you would want to conduct part of this?

MR. CROSS: Well, if you don't, go right ahead.

Q. Assuming that this is correct, Dr. Murray, at page 357:

"Q. Did you say at that time that 'There was no

change in my basic philosophy'? A. That is correct.

[4246] "Q. Did you say that 'I considered myself a better Communist than Stalin'? A. I think I said 'than the Stalinists.'

"Q. Than the Stalinists? A. Yes."

MR. MURPHY: This is what you had in mind, Mr. Cross?

MR. CROSS: I thought it was something—all right.

Q. (Continuing) "Q. Your memory is that you said on that occasion, 'I considered myself a better Communist than the Stalinists'? A. That is what I meant to say.

"Q. Did you say these words, 'I considered myself a better Communist than Stalin'? A. I don't think so, but if I did let it pass. It will suffice.

"Q. I beg your pardon? A. It will suffice.

"Mr. Murphy: May I interrupt to ask whether counsel is reading from the record?

"Mr. Cross: I am not reading from the record. I am asking a question from memory, as I remembered it and a great many other people.

"Mr. Murphy: I object to what other people remember. My question was rather simple and direct, whether counsel was reading from a record.

"Mr. Cross: I did not purport to read from any transcript. I asked if those were his answers.

[4247] "Mr. Murphy: Would your Honor ask counsel to withdraw what other people remember, because that is not part of the record.

"Q. Did you during that period, 1929 to 1931 and 1932, say that you considered yourself a better Communist than Stalin? A. That is not my recollection, but if I did say so I will abide by that.

"Q. Did you say, considering it irrespective of what you said, did you for the period 1929 through 1931 and 1932, consider yourself a better Communist than Stalin? A. I considered myself a better Communist than the Party leaders throughout the International Communist Party.

"Q. Now will you answer my question: During that period did you consider yourself a better Communist than Stalin? A. I don't think I said that, but I will let it pass.

"Q. I know. You have said that three times, but now I am asking you did you actually and in fact during that three-year period consider yourself a better Communist than Stalin? A. I will say yes."

Now assuming, Doctor, that that's the only facts with regard to that statement, do you say to this jury that that is evidence of a person with grandiose ideas?

A. I would scratch that item out entirely.

Q. Now, Doctor, you said that he exhibited, from the [4248] facts that you had, unstable attachments. And so that we can have a clear understanding, you said, at page 4081:

"Another marked characteristic of the psychopathic personality is his inability to maintain steadfast and affectionate attachments. He is continually breaking away from associations he has made with others, and here I could quickly run over a number of other instances: Mr. Chambers leaving home in 1919; his shifting jobs; his going to Williams and leaving in two days; his going to Columbia and leaving in two years and a half; his returning to Columbia and leaving in one term when he said he was returning to complete his education; his abandoning democracy to join the Communist Party; his leaving the Communist Party in 1929 and returning to the Communist Party, and five years later leaving the Communist Party again; his joining the Presbyterian Church and a year or so later leaving the Presbyterian Church."

Before I ask the question, Doctor, you did not mean Presbyterian Church, did you? A. Didn't I?

Q. Well, I think the testimony was that he joined the —he was baptized in the Episcopal— A. Episcopal Church.

Q. Now you said that because of the facts that you had that you came to the conclusion that he was a man without stable attachments and affection. Doctor, have you had [4249] any experience either with subjects or research in which you have found a person to be a psychopathic personality who has been married as long as Mr. Chambers has?

A. I think so.

Q. Do you tell this jury, Doctor, that a man who is married to the same woman for 19 years and who is the father of her two children, is a person with unstable attachments and without affection? A. I would have to know something about the nature of the marriage, sir.

Q. Doctor, you have said in your opinion as a doctor that this man is a person who exhibits or manifests unstable attachments and you knew, and you knew from the facts, that he was married and is still married to the same lady for 19 years and is the father of her two children; that that was part of the facts that you relied upon. What weight, Doctor, did you give those facts?

A. I gave those quite a good deal of weight; but knowing that a psychopathic personality can adjust and maintain relations if he dominates the situation, and not knowing whether Mr. Chambers' wife was one who was apt to yield, to agree, to fall in with the decisions of her husband, I could not pass on that. But if I had evidence that it was a one-way relationship, that Mrs. Chambers was one that would praise her husband for almost anything he did, or agree with him, [4250] then I would not count it because that is common knowledge about psychopaths, that they can adapt and adjust if the other person is doing all the adapting and adjusting.

Q. Well, Doctor, can we pass on to another subject and let you tell this jury that you considered Mr. Chambers a psychopathic personality, despite the fact that you had evidence of him being married to the same lady for 19 years and was the father of her two children—you considered that as one of the facts, and despite that you said that he exhibited manifestations of unstable attachments and no affection, or little affection; is that right?

A. Yes, sir; I had—

Q. All right. A. I had the nine other instances. Here is one—

Q. Yes, but you considered that in adding up whatever you did? A. I considered two—two. The other one with Time Magazine which I thought was way over in his favor.

Q. That was my next one, Doctor. A man who has held a job and where the responsibility increased from year to year and where he was making thirty thousand at the end of ten years, and where he worked with great attachment to his job, where he worked around the clock, and he did that for ten years, you say you gave that great weight? A. Yes, sir.

Q. So that the great weight that you gave to the job [4251] at Time and the great weight that you gave to the one marriage was lacking in the scale when you compared it to the other nine? A. I said great weight for Time, sir. I did not say great weight on the marriage.

Q. Where would you rate the marriage, 19 years of marriage? A. I would suspend judgment about that unless I knew what the nature of the marriage was.

Q. You did not consider it at all in putting it to the scale? A. Oh, yes. What I have just said is not quite true. I put it over on the positive side with a very large question mark.

Q. And then you said that the scale balanced the other way, though, because he had two days at Williams—that was one; right? Two or three days at Williams? He had no attachment to Williams? A. If you put it that way, it seems ridiculous.

Q. It does seem ridiculous, doesn't it, Doctor? A. Yes. But if you look at it this way, that a young man of 24 who has come out against his school and against his college and left his family and gone against the ideology of his country, and his country, and his religion, that is unusual. I think that it would be perhaps relatively normal for a boy to have antipathies in perhaps two areas—antipathy to his family or his school, or perhaps religious doubts or something; [4252] but all of those—those are all the possibilities. I think that is a very strong set of factors to consider there.

Q. Let us run through those factors quickly, Doctor. Williams, two days, running away as a boy after high school for the summer months— A. Only the summer months?

Q. A short time after high school. A. Was that only for the summer, Mr. Murphy?

Q. What time did you rely on, Doctor? A. I thought that he was away from here until the summer of 1920. I took it as I read the document to be almost a year away from home. But—

Q. Assuming, Doctor, it was a much shorter time, and the man was still in his teens. You don't attach much to that, do you, Doctor? A. By itself, no, I wouldn't attach any importance to any of these by themselves.

Q. Then we have Williams. And what did he do against the college that made you feel that he had no stable attachments? Didn't stay there long. At Columbia. A. At Columbia?

Q. At Columbia. A. He went twice and left, despite the fact that he had written a letter which I now know the contents of, you having read it to me, showing a great deal of, apparently, sincere interest in finishing his college education. Since then, in the American [4253] Mercury, in his review of Santayana's book, he gives his opinion of college that he has kept right through the years. I am not going to hold it against a man who is antipathetic to college. I mean, leaving college, in feeling hurt by this, but I think—it was very clear in that article what his feelings were. It was—

Q. Assuming that he had nothing but disgust for college, would that be above or below normal? You couldn't honestly consider that, could you, Doctor?

A. Not by itself, sir, no. I think some of our greatest geniuses have had a disgust for college. And I think that if Mr. Chambers had written some great work of art I might almost consider that that was a sign of special intelligence.

Q. Doctor, let's see. His own attachment for the Communist Party 1925 to 1938, would you say that that was a stable or unstable attachment to a cause?

A. Well, aren't you counting out his three years separation from—

Q. No. He said that he walked out of the Daily Worker; he said he was a Marxist; he said he was as good a Marxist as the Stalinists were. Wouldn't that be attaching yourself to a cause, even though you weren't working for the Daily Worker?

A. Ideological; as I understand it was consistent [4254] from 1924, 1925 to 1937.

Q. What were some of the other things, Doctor, that you thought exhibited unstable attachments that we haven't covered? A. Well, we have got him now leaving the Communist Party when this was—you have described him as having a great deal of idealism.

Q. After 14 years he finally saw the light of day, but he left the Communist Party. And when you say a person leaves the Communist Party after being attached to it for 14 years, would you say that that exhibits an unstable attachment?

A. I think the very words—you have answered it yourself; stable attachment means to hold something, and when you break with something that means unstable. I thought that—

[4255] Q. Does it mean unstable or just mean a break? It does not mean "unstable" when you leave something? Assuming he had been married let us say for 55 years and he left his wife after 55 years, would you say that would be unstable? A. I would say—how old is he going to be now? 75 years.

Q. Let us not labor the point. Do you say when he left the Communist Party after 14 years, that was evidence of an unstable attachment? And I will drop it.

A. I would say together with the others that you have to count that as an example of leaving and breaking with a loyalty that had been, according to your description, uppermost in his mind.

Q. Doctor, assuming, and let us get to another subject matter, assuming that he had a fond attachment to arts and letters for a period of 30 years, a fond attachment to literature, assuming those are the facts, Doctor, would that also, to your medical mind, signify an unstable attachment? A. That does not count one way or the other, Mr. Murphy, in this diagnosis, because—

Q. You don't even put it in either scale? A. No. Literature can serve many purposes.

Q. Well, would you say that his living on a farm since

1940, the same farm, with his wife and children, say the last nine years, would you say that would be a [4256] sign of a man who jumped from place to place, a sort of unstable attachment fellow? A. It is not a man that jumps from place to place if he stays in one place nine years.

Q. Did you put that in the scale? A. No, I did not consider that, but I will now.

Q. On which side does it go, Doctor, on the positive side? A. On the positive side, yes.

Q. The fact that Professor Murray Shapiro, whom he had known since early Columbia days, is a friend of his today, after all of these years, would that evidence an unstable attachment with friends, let us say? A. As to friends, Mr. Murphy, psychopathic personalities all have friends of various degrees of steadiness, and various degrees of feeling, and so forth. I would have to know the nature of those friendships to pass at all on that.

Q. Well, Doctor, assuming that I was allowed under the rules to bring down people from Time where he worked, men with whom he was associated, who would testify to their fond affection for him; assuming I could do that under the rules, would not that evidence also an attachment to people that he worked with and friends that would not be evidence of a psychopathic personality?

A. That would count, depending upon what they said and felt. That is on the positive side. Psychopathic [4257] personalities are not friendless, Mr. Murphy. They make friends, in fact, quite readily.

Q. Do they hold them, Doctor? A. No, they are not apt to hold them for very long.

Q. Oh, that is the point? Now, Doctor, you said that when you read some of the writings of Mr. Chambers, the writings that you have described, you picked out certain verbal pictures from the writings which you have described as "images," and from those images you found a very large portion of matters dealing with death and decay and decomposition. What percentage, Doctor? What was the percentage for that that you found?

A. Well, if you want me to refer to my notes I could.

Roughly there were about a little over 700 images, stretching the definition of that term to its fullest extent to include any kind of mental pictures,—something you could see. More than half of those were entirely insignificant from the psychological standpoint, either positive or negative.

Among those that were psychologically significant I found 32 per cent—I think I am right in this—32 per cent on the positive side very definitely; images of light and growth and fertility and vegetation and affection and admiration for something—beauty. On the side of firmness and solidity and permanence, and so forth—I better look and see exactly here, because it was around— [4258] (after examining notes) Here is what it is: 38 per cent of the significant imagery was on the positive side. I think I must have told you 32 per cent?

Q. You said 32, yes. It is 38? A. It is 38, and 62 per cent is what I am calling, for lack of a better name, negative.

Q. Let me see, Doctor: you said you started off with 700 images. Does that mean verbal word pictures, so we can get clear what you mean by images? A. Yes, sir. It is not at all easy to define but it is a word picture. I think that would do.

Q. In other words, the use of words in these stories, as you analyzed them, represented approximately 700 pictures. In other words, if one sentence said, "The boy got on a streetcar," you would put that down as a streetcar? How would you put that sentence down? A. In the case of the ordinary and necessary kinds of actions, the most commonplace kind of actions, that would be absolutely necessary for a story and I would not count it at all. I mean there are some—"He walked across the street," or something of that kind I would not count at all. If there was anything at all unique or striking or out of the most ordinary or necessary kind of action it would go down.

Q. So that you eliminate a great many of the word pictures, and pick out what you thought were significant [4259] either from a positive or negative point of view

according to the classification you just had? A. I think that is fair to say that, yes.

Q. Now, of the 62 per cent that you describe as negative, what percentage was relating to death and decay?

A. Well, in this case I have divided the categories up —I mean I have not done it in terms of per cent. I have 69 under the heading we have called "disintegration," which means disruption and tearing down and breaking up and wreckage in general.

Q. Let us suppose, Doctor, so the jury can get a picture, suppose one of the stories was with regard to a police officer and he wanted to serve a warrant, and in order to get into the house he knocked a door down and arrested a man, would that knocking the door down come under destruction?

A. If it was described with any kind of vivid imagery it would. If they said he pushed the door and came in, I would not count it, but if in some phrase he gave a description of this door—

Q. Let us say he used the revolver and broke the lock and knocked it with the back of his heel and there was a great deal of noise and breaking of frames of doors, would you include that as destruction? A. Yes. It has to do with what kind of pictures come to the mind when the man is engaged in creative writings.

[4260] Q. Assume that in "The Damn Fool" where the Greek pretends to be deaf and dumb so that he can move through the Crimea, what significance would you attach to that, bad or good? A. I included it. I put that in the insignificant class. One of the reasons for putting something in the insignificant class is if it only occurs once or twice out of 700 and you cannot connect it with anything on either side, then you don't count it.

Q. Doctor, you said that a large proportion related to these images of death and decay, and I was trying to find out what the total sum so we could see the proportion, whether the proportion was large or higher, and you said you did not put it down that way? A. Well, I have 157 images in that first class that I described on Thursday. Then there is a similar related group in which I have 60

images. I would like to say this, Mr. Murphy, in connection —may I say this?

Q. Indeed, yes. A. In connection with quantitative estimation of these images, as far as I know psychiatrists and psychologists don't count images. They don't make statistical analyses of all the images. No one has, so far as I know, attempted that except a few people from a literary standpoint, and only one complete study of Shakespeare imagery and, as far as I know, there is only one statistical analysis of any writer's distribution [4261] of images, and that is Shakespeare.

Q. What is it in Shakespeare, for our information, Doctor, do you know? A. It is a book called—

Q. No, I mean what are the related percentages? How did he do on "death" and "decay"? A. Oh, he has got everything. He has got plenty in death and decay.

Q. What is the proportion, do you know? A. Well, it has been done for each one of his plays separately and it was not done according to psychological criteria. It was just done in terms of types of objects, whether they were household objects or referred to the sky or the woods and had no psychological significance. That is the way the classification was made up.

On the other hand, the psychologist can look at some of these categories and find some significance. For instance, in Hamlet there is lots of corruption imagery of this type.

Q. What would you say this meant, as far as a psychologist is concerned, reading from Shakespeare, Doctor, where he said in "Henry VI":

"But, see, his face is black and full of blood;
His eye-balls further out than when he liv'd,
Staring full ghastly like a strangled man;
His hair uprear'd, his nostrils stretch'd with struggling,
His hands abroad display'd, as one that grasp'd
[4262] And tugg'd for life, and was by strength subdued.
Look on the sheets, his hair, you see, is sticking,

His well-proportion'd beard made rough and rugged,
Like to the summer's corn by tempests lodg'd."

Would that have a significance if you started to analyze Shakespeare?

A. That, by itself, is a very beautiful account. As I have said, Mr. Murphy, one image or series of images has no significance unless you find relationships among them. Shakespeare has been a puzzle to everybody because his imagery is distributed everywhere. He has gone more on the creative side, on the fertility side, on the love side, and the light side, than anyone, more than on the other side.

Q. Doctor, I have a Shakespeare dictionary here and it goes on for pages and pages of quotes dealing with death, from all his different plays, and I have counted them, and it is more than his pages on "love," for instance. Would that have any real significance to a psychologist?

A. Why, certainly.

Q. Would you say that gave signs that Shakespeare was a psychopathic personality? A. Why should you ask that question, sir?

Q. Perhaps, Doctor, we are wasting a lot of time. I was going to give to you a great many quotes from some [4263] of the literary figures, starting from the Bible and from the Greek writers and some of our modern writers, and so forth, all dealing with death and corruption and blood, and I was going to ask you, Doctor, whether or not they showed signs that the authors were psychopathic personalities?

A. Certainly not.

Q. They do not? A. Not necessarily. Why, there are millions of pictures about those things. Those are realities. Death is a reality. Corruption is a reality.

Q. Do you have any idea how many times death is mentioned in the Bible? A. I would not be able to guess how many times, no.

Q. Doctor, let us take a famous story about Huckleberry Finn. Do you remember the part about the boy's lying repeatedly and making believe that he was murdered and came back to attend his own funeral and all that? You

did not get any idea Mark Twain was a psychopathic personality, did you, from that? A. I should say not.

Q. Doctor, did you ever read Thornton Wilder's play about the Flight Into Egypt? A. No.

Q. Do you want to say something? A. I can save you a little time, perhaps, Mr. Murphy, because I will grant you right now that you could stand up for a whole week and give me images out of the best literature on each one of [4264] those topics, I am taking these images in relation to other images, and taking them in relation to the kinds of writing that are involved and the kind of example that I would mean would be, for example, in a review in the American Mercury where he is talking about a book that has to do with social philosophy, and all of a sudden you find the image, after enough corpses have been laid down to bridge the bog, the survivors may crawl across to a more suitable social order.

Now in a book review of a book on social philosophy to have an image like that suddenly come in of corpses across a bog is striking, particularly as the image of bogs and quog holes and mires and sloughs, and so forth, have been repeated in his earlier writing which was 20 years earlier. It is that kind of thing that we are talking about.

[4265] Q. Doctor, if there is no real significance I won't press the point. Did you say there are no statistics from any other doctor? Is that correct? A. Yes, sir.

Q. So we won't bother any more with that. You did say that there was some significance in the stories that you read, or some of them, that they were written in the first person. Now, some pretty great stories have been written in the first person, haven't they, Doctor?

A. Oh yes.

Q. Do you know how "David Copperfield" starts? A. The first sentence?

Q. Yes. A. No.

Q. Doesn't it say "I was born"? A. "I was born," yes.

Q. And the "Aeneid" starts off "I sing of arms and the man." A great many, a great many books, some of the

leading books in the world about the devil—I suggest "Paradise Lost"— A. Certainly.

Q. "Dante's Inferno". A. Certainly. Those are some of my favorite books, Mr. Murphy, and I am taking that into account when I say this, and I am not saying it irresponsibly. I am saying it as a result of 20 years work in a very serious examination of this work. We would not justify it in terms of any statistical analysis that now exists, and I do not think one will exist for perhaps a hundred years.

[4266] Q. All right, Doctor, we will go onto something else. I didn't ask you—and I meant to—when were you retained in this case for the first time? When were you first consulted? A. When was I asked?

Q. Yes. A. I was asked in the middle of November it was at least a week or more than a week before Thanksgiving.

Q. Would you say it was before or after the trial started? I think it started on November 17 and Thanksgiving was on the 24th. A. Well, it must have been just around the—

Q. The time the trial started? A. About the 17th, I would say, then.

Q. And who was it who asked you? A. Mr. Cross called me on the telephone.

Q. When was it, Doctor, that you got the typewritten copy of the hypothetical question? A. That was Saturday after Thanksgiving—did you say that Thanksgiving was the 24th?

Q. I think so, Doctor. A. I think that would be the 26th, then, Saturday the 26th. I am not positive it was that week, and it was the hypothetical question of the last trial.

Q. About a week after Thanksgiving approximately? A. No, no. The week of Thanksgiving.

Q. The week of Thanksgiving? A. Two days after [4267] Thanksgiving.

Q. And when had you completed your reading of the few plays and stories that you did read?

A. On that weekend I read everything that was avail-

able or accessible to me. Since then, quite a good deal later, I read, for example, the American Mercury article.

Q. Doctor, when would you say would be the time when you completed your reading as distinguished from the hypothetical question? A. The Saturday and Sunday after Thanksgiving. That was the 26th and 27th. I read through quickly the six poems and four prose pieces that I have mentioned. I have re-read them five or six times since then, and the analysis did not come until somewhat later. That is, the specific detailed analysis. But I read them through and was struck by certain things in them right away.

Q. When, Doctor, would you say you formed your opinion? When was that? A. That was some time later, but I first told Mr. Cross that I was too busy and could not do it.

Q. We will come back to that if you want to explain anything, but I want to find out when it was after you had read the hypothetical question of the last trial and finished reading whatever you did read when you came to the opinion that you arrived at as a doctor.

[4268] A. I think after the Saturday and Sunday in which I devoted two whole days to reading the thing I thought the material was very suggestive and looked to be on the positive side, but I had not made up my mind and had not given any definite opinion and had not agreed to testify.

Q. When had you, one, arrived at an opinion; and, two, agreed to testify? A. Well, I don't know the exact date because there wasn't any exact date. It was a slow process. I took material home with me and some was sent to me in Boston, and I re-read it and brooded over it, and so forth, and after perhaps two weeks more, I wouldn't say exactly—

Q. Would it be fair to say, Doctor, within three weeks after Thanksgiving you had come to a pretty definitive opinion, let us put it that way? A. Yes. It was shortly before Christmas, I would say, that I had a definite feeling that there was sufficient evidence for a relevant diagnosis.

Q. So that we can understand then, it was shortly

before Christmas that you felt that you had sufficient evidence for a relative diagnosis? A. No, sir, sufficient evidence for a relevant diagnosis, to the issue of this trial; I mean something that had some pertinence to the problem involved.

Q. I am sorry, "relevant." Now, how long have you [4269] been in attendance here this past week? Would it be fair to say that you were here in New York all last week? A. I have been here since Christmas.

Q. Since Christmas? A. Every day.

Q. Now, are arrangements being made for your expenses? A. No. I have probably been fired from my job. I have let everything go up in Cambridge.

Q. I was wondering, are you paying for your hotel expenses here yourself? A. Yes, sir.

Q. Do you have an arrangement to be reimbursed for those? A. No arrangement has been made. It has not been discussed.

Q. Well, do you have an arrangement up at college—are you on a leave of absence now? A. No, but the way it is, when I returned to Harvard I returned on half time so I could have half time for writing and research; and so I am on half time at Harvard, and that gives me a certain amount of leeway. I should not be doing what I am doing from their standpoint, but I am doing it. There is a symptom.

Q. That is a sort of a disregard for the authorities of the college? A. Yes, sir, an instability of attachments.

Q. Now, Doctor, I think you told us, although I did not ask you specifically—has an arrangement been made about paying you for your professional services?

[4270] A. No, sir.

Q. Do you expect one to be made? A. I have not thought of it seriously, and I would say no. I have not had any expectations.

Q. Doctor, now, as I understand it, and I think you said it two or three times, that the opinion that you have expressed in court here is based upon the facts that you have assumed in the hypothetical question and the various

readings that you have outlined to us; that is correct, is it not? A. Yes, sir.

Q. And I think you said on two or three occasions that those are the only facts? A. I have done everything I could to keep out of my mind the few things that I vaguely remember seeing in the newspapers last spring, and so forth.

Q. Well, just forgetting those for the minute, you can tell this jury that it was basically—

A. It was what?

Q. —it was basically the assumed facts in the hypothetical question and the various writings that you have described on which you formed your opinion as a doctor? A. Yes.

Q. And I think you told us that you came to your opinion shortly before Christmas based upon the facts that I have just described. A. Yes.

[4271] Q. Now, Doctor, have you done a little investigating yourself in this case? A. I was told by a friend of mine—

Q. Now please. A. All right.

Q. Would you answer that, if you can, yes or no? A. Would you define "investigating"?

Q. Well, have you talked with someone about Mr. Chambers? A. Yes.

Q. And that was before you had come to this opinion that you have expressed? A. Yes.

Q. Now, has that talk that you had interfered or biased or influenced your opinion? A. No, my purpose in that was that if I found anything that would go against any kind of relevant diagnosis I would not testify. I got no information that was on either one side or the other.

Q. Now, Doctor, I went over very, very slowly and I thought we had agreed that you had based your opinion on the assumed facts of the hypothetical question and on the writings that you have described, and that you formed your opinion shortly before Christmas. Now, those we are agreed on, are we, Doctor? A. Yes.

Q. Now, did there come a time, Doctor, when you

were here in New York City and you interviewed a man who had worked with Chambers? A. Yes, that is true.

Q. And did you at that time—when was that, Doctor? Was that in November? A. Yes, that was in November. That [4272] was Saturday the 26th.

Q. That was before you had an opinion, correct? A. Yes.

Q. Now, when you interviewed this man, Doctor, in New York City, did you have an opinion then? A. No.

Q. You did not? A. No.

Q. How long did you interview him? A. Oh, well, I will say an hour, but I don't think it was as long as that.

Q. And he was one of Mr. Chambers' superiors at Time? A. No, he was under him.

Q. He worked under him? A. Under him, years ago; eight or nine years ago.

Q. At Time? A. On Time.

Q. Now, did you ask that man whether or not Mr. Chambers exhibited symptoms of envy? A. I might have.

Q. What did he say? A. I think that everything he told me was negative. I don't remember a single thing that he said that could be used on one side or the other.

Q. Well, let us see. He said that there were no symptoms, as he remembered Mr. Chambers, of envy?

A. I would say no to everything that you say as far as my memory goes.

Q. Well, did you ask him whether he exhibited symptoms of rivalry? A. Yes.

Q. And he said no to that? A. He did not give an [4273] absolutely definite answer, but he certainly did not say "Yes." He never said "Yes."

Q. And did you ask him whether or not Mr. Chambers exhibited symptoms of untidyness in his clothes?

A. I might have.

Q. And what did he say? A. Well—

Q. Didn't he say that he was very tidy? A. No.

Q. He did not? A. No, not that I remember.

Q. Was that what did he say, Doctor? A. I don't remember. I remember his describing the way he sat in his room and that he kept the door shut, and he was the only

one of the editors who kept the door shut. That is the only thing I remember.

Q. Well, Doctor, didn't you tell him that you had an opinion at that time about Mr. Chambers? Didn't you tell this man— A. The way you are using the term "opinion," at least the way I have understood it, would be where you definitely say you had an opinion. The—

Q. Doctor, I am trying to ask you, were you prejudiced at the time you interviewed this man? Did you have a preconceived bias? A. I would say not. I would say that I had already seen something and that I had begun to form a hypothesis, and I think my idea was mainly that if I found something contrary to the hypothesis that was forming, that I would not testify.

[4274] Q. In other words, Doctor, if you found something outside of the evidence in the case you would not testify? A. If I found something outside the evidence in the case which definitely showed me that the hypotheses that were coming to my mind were wrong, I would not have testified, no.

Q. Did you ask him about whether or not he had very warm and friendly relations with his family, and did this man say that he always had the picture of his boys on his desk; do you remember that?

A. His memory would be better than mine because I understand that he was visited very shortly after I was there, and everything that he remembered was taken down. With me, I took nothing down; it is a long time ago; I got no answers—no real answers, and therefore what your record is—

Q. Let us find out, Doctor, just when that was. Now, when did you say he was visited shortly thereafter? Who told you that? A. Well, I heard it the following week.

Q. The following week after you were there?

A. About five days after I was there I was told that—

Q. Who told you? A. I would rather not say, sir.

Q. And this man or woman who told you said that the things were written down? A. No.

Q. Where did you pick that one out, Doctor? Did you [4275] pick that up out of the conversation? A. I ima-

gine—I assumed that any good investigator who is interviewing another man for such purposes writes down what the conversation is.

Q. Well, who was the person who was interviewing? If you don't want to tell me the person who told you, who was the person who was supposed to be doing the interviewing?

A. A Government man.

Q. Who told you that? A. I would rather not say.

Q. I am going to ask you now, who was the man who told you that somebody was interviewed and things were written down a week after you were there?

A. Do I have to answer that question?

Q. I think you do. It is up to the Judge.

THE COURT: If it tends to incriminate you you don't have to answer. You may claim the privilege.

THE WITNESS: It does not—it has nothing to do with me—but I would rather not bring in a name of a perfectly outside character who has played no part in this at all, sir.

MR. MURPHY: I press now for the answer, if your Honor please. This witness has said that somebody told him that there was an interview and things were written, and I think we are all entitled to know who his informant was.

[4276] THE COURT: You are.

Answer it unless you want to claim your constitutional privilege, which you may do.

THE WITNESS: No, sir. I received a letter from Louis Mumford about five days, I would say, roughly, after my visit to New York, in which he said this man that I had visited was greatly disturbed by having been visited by an FBI agent and put under a rigid cross-examination.

Q. I don't suppose you have that letter? A. No, I haven't got that letter.

Q. Did you tear it up? A. I don't know. I may have it.

Q. You can't recall, Doctor, whether you tore the letter up or not? A. No. I keep almost all of my letters, and the chances are that it is in my letter file in Boston,

and I received it a month and half ago, and I don't believe I tore it up.

Q. And your recollection is, Doctor, that that letter says that about a week after you were with this man and conducting an interview, that the FBI visited this man and took down questions and answers in a sort of a rigorous way? A. No, sir. That is not what I said.

Q. Tell us, Doctor, what Mr. Mumford said in the letter, as you recall it. A. I was here in New York over the weekend, and, as I remember it, it was [4277] Saturday afternoon that I made this call. I would say—

Q. How did you get the call? Who arranged the call for you, by the way? A. I heard of this man through Mr. Mumford.

Q. Are you friendly with Mr. Mumford? Is that how you heard? A. Why, yes.

Q. Did you ask Mr. Mumford the names of some people Mr. Chambers worked with? A. No. He just happened to mention it in the conversation.

Q. You were telling us, Doctor, what Mr. Mumford said in his letter. A. I think I received that letter five days after I had made the visit. That was perhaps a Thursday. That would bring us into December 1, or something of that sort, and I received this letter in which he said "Very peculiar that my friend here whom you visited was very much upset by being visited shortly after your visit"—and he did not say how soon after, but as I got the letter within five days I supposed it was two or three days, or I don't know what, but, at any rate, shortly after my visit.

Q. Visited by whom? A. FBI.

Q. It did say that, Doctor, in the letter? A. That is what it said in the letter.

Q. Where is the vigorous questioning— A. I didn't say that as a fact—

[4278] Q. I thought you were testifying as to what he said in the letter. A. What he said in the letter was that this man had been visited by the FBI and was very disturbed by the questions that they asked, and then the part about the exact questioning came from what I thought the

practice of the FBI was, is to record a conversation that they have. I assume the FBI made a record of this conversation, and as this conversation supposedly, so far as my informant went, occurred within a few days or so after the interview, I would say it was probably a great deal more accurate than my memory. That is my point.

Q. Let us just see what facts you have. All you know is that you got a letter from Mr. Mumford in which he said that the FBI visited this man that you interrogated. Now what kind of questioning, or what the questions were you don't know? A. No.

Q. And you are relying upon Mr. Mumford's statement that the FBI visited this man; you don't know of your own knowledge, do you? A. No. I saw the man once and I had never seen him before or since.

Q. Well, did you ask him how hard or little Mr. Chambers worked when he was this man's boss? A. I have no doubt.

Q. Do you remember what he said? A. Yes. He said he was a very hard worker.

[4279] Q. Did you ask him whether Mr. Chambers made grammatical mistakes in his work? A. Probably.

Q. What did he say? A. I don't remember.

Q. Did you ask him whether Mr. Chambers drank or not? A. Probably.

Q. What did he say? A. No.

Q. Did you ask him whether or not Mr. Chambers helped him or hurt him when he was his boss? A. I don't remember asking that question. I certainly did not ask it in those words.

Q. Doctor, let me ask you this in all seriousness: you are a doctor, and you were asked to testify early in this trial by Mr. Cross—is that correct? A. Yes.

Q. —and you were given a copy of the hypothetical question read at the last trial, and then you were given the names or copies of some of Mr. Chambers' writings; and then you went on your own volition to do some private investigating too? A. If you want to call it that, yes. I had not decided. I want to make up my mind and not agree to

testify if there was something that would militate against it.

Q. Let me ask you this, Doctor; did you tell this man that Mr. Chambers was a pathological liar? A. I would not—

Q. Did you use that term at all? A. I might have.

[4280] MR. MURPHY: You may examine.

Redirect Examination by Mr. Cross

Q. Dr. Murray, did you also, before you decided to testify in this case talk to people in the State Department about Mr. Hiss?

MR. MURPHY: I object to that, your Honor. I do not see what relevancy that could have. The doctor is testifying—

MR. CROSS: If you are objecting I will waive it.

Q. Dr. Murray, after my telephone talk with you which was about the time the case started, when next did you see me? A. On Saturday.

Q. Saturday after Thanksgiving?

A. After Thanksgiving, yes.

Q. And when you were first asked to testify did you in substance say that you were so busy that you did not think you could even work it in or consider it? A. Yes, sir.

Q. And I asked you if you would consider the matter and talk with us further? A. Yes.

Q. And then you were in New York over that weekend? A. Yes.

Q. Did I come to your home on December 24, 1949, in Boston? A Yes, sir.

Q. Saturday morning. A. Yes.

[4281] Q. And at that time in walking down the stairs did you go into one of your own rooms and close the door and tell me of this incident that you have told about the FBI checking up on this man? A. Yes, I think I did.

Q. And is that the first time you had discussed or disclosed that to me? A. Yes, it was.

Q. I want to read you from page 4136 of this trial.

Mr. Murphy said:

"Q. And that is what I am going to try to prove, so we will understand each other; that the basis that you apply to each symptom is either non-existent or so small so that no matter how many we have, no matter how many times we keep adding symptoms, the sum total is going to be zero. That is my argument."

And then I said: What is the question?

"Q. Now the question is, Doctor, what medical significance do you attach to the fact that Mr. Chambers admitted that he did poorly in mathematics and failed in geometry?" and so on.

Is that the proper way to evaluate your opinion, Dr. Murray, to take each individual instance or characteristic that you have here given, or do you take them all as a whole?

MR. MURPHY: Your Honor, I have no objection to the Doctor saying how he arrived at his opinion, [4282] but as to the evaluations of it I think they are for 12 other people.

THE COURT: Yes, I think so, Mr. Cross. That is for the jury.

MR. CROSS: That use of the word was an unfortunate one, your Honor, and I apologize to you and the jury.

Q. How do you go about reaching a conclusion such as you have reached, or an opinion such as you have reached here, Doctor? Do you take each individual characteristic and give a percentage evaluation and then add them all up to see what it comes to? A. No, you do not do that. No doctor does that. I could illustrate perhaps without an example.

Q. Please do. A. If there was a picture on the wall here of the City Hall, which we all agreed was the City Hall, and that picture was cut up into pieces like a picture puzzle, and you were handed each of those pieces at once and asked is this the City Hall, you would say no, and there might be 200 pieces, and you would have to say no each time. When you got all through you would have said 200 noes which would have amounted to a great big No, and yet there was

the City Hall. Now, a picture of diagnosis, medical diagnosis or psychological or psychiatric diagnosis, is based on the relationship of a multiplicity of facts. Very rarely does any one of those facts [4283] have crucial significance. It is the number and the relationship.

Q. You gave some percentage, I think, of rejections in the OSS, and I think you said about 20 per cent were rejected. You did not mean that those were rejections solely on account of determining that the selectee was a psychopath, did you? A. Oh no.

Q. You have not given us any percentage or indication of the number of selectees which were found to be psychopaths, have you? A. No. In answer to one of Mr. Murphy's questions I made a point of saying that we did not give official diagnoses because we did not want anything on the record that would interfere with a man's career.

Q. Now, Mr. Murphy has asked you in cross-examination, Doctor, whether the fact that Mr. Chambers had been married for 19 years would make any difference in your opinion, and you said without knowing something one way or the other you could not say; is that a proper statement? A. Without further information about the nature of the relationship you would not know how much weight to give it.

Q. I think you said that it is not unusual for a psychopath to be married for a considerable period of time provided he dominates the situations; is that true? A. Yes, I would say that was true, sir.

[4284] Q. Now, assume that in redirect examination by Mr. Murphy of Mrs. Chambers at page 1366 these questions were asked and these answers were given:

"Q. If he"—meaning Mr. Chambers, the question being addressed to Mrs. Chambers—"If he told you that starting tomorrow we are going to Ypsilanti and your name was Hogan— A. We would go to Ypsilanti and we would be Hogans.

"Q. And you were in sympathy with what he was doing? A. Everything he did."

Assuming that to be a fact, would that be consistent

with a 19-year marriage with a psychopath? A. If those were sincere statements on Mrs. Chambers' part, yes.

THE COURT: Mr. Cross, I think we had better have our recess now.

(Short recess.)

[4285] Q. Dr. Murray, just two or three questions. When you were in New York on Saturday, I think you said it was November 26th, you saw me where? A. At your office, sir.

Q. Well, borrowed office. A. Yes.

Q. At what address? A. 20 Exchange Place.

Q. How did you make the appointment to go to see this man on that day? A. It was made on the telephone.

Q. From where? A. Well, I am not absolutely sure whether Mr. Mumford made the appointment for me or whether he gave me—no; he gave me the number and I called him up and I made it on the telephone from the hotel in which I was staying.

Q. Outside of Mr. Mumford and yourself do you know anyone else who knew you were going there? A. Nobody else. I mentioned to you at your office here that I was going to see a man who knew—had known in the past Mr. Chambers, but I did not tell you his name.

Q. And that was entirely on your own initiative?

A. Yes, entirely on my own initiative.

Q. On December 24, when I called on you in your home in Boston, was it then you said that you would testify?

A. Yes.

Q. What would you say with reference to the comparison that you found of the images of death and destruction of Mr. Chambers' writings as compared to any other that you [4286] have ever examined? A. I thought when I examined the first collection of stories that it was way beyond anything that I had seen, but now on examining a larger range I find it isn't so striking as I first thought. It is still—they are still more plentiful than any I have seen, but it isn't way outside the normal range as I first thought.

Q. And your opinion that you have given to his Honor and the jury was based, was it, upon what? A. On the—

the facts that I was asked to assume in the hypothetical question, and the poems and prose writings of Mr. Chambers. Those two.

Q. And was it and is it your opinion he is a psychopathic personality? A. Yes, sir.

MR. CROSS: That is all.

Recross Examination by Mr. Murphy:

Q. I forgot to ask you, Doctor, after you had finished talking to this man that we haven't named yet, did you say to him, "Oh, you are just whitewashing Mr. Chambers"?

A. I made some remark of that kind, yes.

Q. Now, when Mr.—I am sorry. A. It wasn't that, but I said, "You make him out"—oh, let's see. Well, at any rate that was the—

Q. "Whitewashing" is good enough? A. That is good enough, yes.

Q. And this was the man who worked with him, who worked [4287] under him? A. Under him about—well, I think about—

Q. 1942? A. 1942. About eight years, seven or eight years ago.

Q. When you said that when Mrs.—if you assumed that Mrs. Chambers said that she would go to Ypsilanti and use the name Hogan if her husband asked her to, did you make any distinction in your mind, Doctor, as to whether or not that was the time they were Party members or he was a Party member working as a paid functionary?

A. Was that—was I given that fact?

Q. No. I was asking you— A. Yes.

Q. —whether you did, and I was going to ask you now to assume that that hypothetical question was referring to the time when he was a paid functionary, and the question was whether the wife would go with the husband on his job. That really has no medical significance, does it, Doctor?

A. Whether she would go or not?

Q. Yes, and to use the name that he was using as an underground member. In other words— A. No.

Q. —assuming, Doctor, that he said, "We have to go to Chicago tomorrow, and the name is McGillicuddy"—

A. Yes.

Q. —that doesn't signify any domineering traits as far as he is concerned, does it, if she is willing to go?

A. Well, it is just what is there.

[4288] Q. She is a pretty nice wife? A. She is—it fits in with his plans.

Q. As wives are supposed to do? A. Yes.

MR. MURPHY: You may examine.

MR. CROSS: No further questions, Dr. Murray. Thank you.

(Witness excused.)

CLARK M. EICHELBERGER, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination by Mr. Cross:

Q. Mr. Eichelberger, will you please state your residence?

A. 306 Lexington Avenue, New York City.

Q. What position do you hold at present, Mr. Eichelberger? A. I am Director of the American Association for the United Nations.

Q. Was the name of the United Nations Association something else at a prior date? A. It was organized in 1923 as The League of Nations Association.

Q. And when was the name changed? A. The name was changed I believe in January of 1945, shortly before the San Francisco Conference.

Q. How long have you been connected with that Association, either The League of Nations Association or the United Nations Association? A. I think it was in [4289] approximately 1927 that I became Director of the Midwest office of The League of Nations Association and then later became the National Director of the Association.

Q. Aside from those offices, Mr. Eichelberger, will you state briefly to his Honor and the jury what your training has been and what positions you have held?

A. Well, I have been interested in a number of collateral organizations connected with the movement for The League of Nations Association and then the United Nations; Director of the Commission to study the organization of peace of which Professor Shotwell was chairman, and been interested in a series of committees that developed to support the principle of collective security.

Q. Have you at some time been connected with the State Department in Washington? A. From the summer of 1942 to 1943 I was a consultant to the Department and one of a committee of five that met with Sumner Welles once a week to prepare the first draft of a plan for a world organization to succeed the United Nations.

[4290] Q. Where is the office of the national headquarters of the United Nations Association? A. 45 East 65th Street.

Q. And the name of that house is what? A. I believe it is the Woodrow Wilson house. It is the property of the Woodrow Wilson Foundation.

Q. Are you the national head, so far as any executive is concerned, of that organization? A. If you call the National Director the executive head. I am responsible to the executive committee and board of directors.

Q. But I mean you are the executive head serving subject to the executive committee and also the board?

A. That is right.

Q. Do you know Mr. Francis B. Sayre? A. Yes.

Q. When did you first have any contact with Mr. Sayre?

A. I think my first contact with Mr. Sayre was in approximately in 1936 when he was in the State Department.

Q. In brief, just what was the contact? A. Well, I was very much interested obviously in the whole program of economic cooperation of the economic work of the League of Nations and the economic evolving of the Government that led to the reciprocal trade program, and I would consult Mr. Sayre frequently about economic problems concerning American foreign policies and League of Nations, and also Mr. Sayre was interested in League of Nations and I would talk to him about Association policy.

[4291] Q. At some time did you meet Alger Hiss? A. Yes, Mr. Sayre introduced me to Mr. Hiss.

Q. About when? A. It would be in the latter part of 1936 or early 1937.

Q. Did you find in your file and give to me this memorandum (handing)? A. Yes, I did. It is obviously—

MR. MURPHY: I object to describing it.

Q. Do you know the occasion for receiving that memorandum?

A. I don't remember the exact occasion, but as near as I can remember it is a reference from Mr. Sayre to see Mr. Hiss.

Q. So that you knew Mr. Sayre in connection with your work as National Director of the League of Nations Association? A. Yes.

Q. And in connection with your contact with Mr. Sayre, you were referred by Mr. Sayre to Mr. Hiss, is that a fair statement? A. Yes.

Q. Will you tell us briefly, Mr. Eichelberger, just what your contacts were with Mr. Hiss after you first met him either in the latter part of 1936 or early 1937?

A. Well, I would have to explain, Mr. Cross: I used to go to the State Department frequently to talk about the policy of our Association and the policy of the Government that was developing and I was concerned in my talks with Mr. Hiss in 1937 on two subjects; one was a series of [4292] programs that we wished to put on on American and world economic cooperation. It happened that a group of national organizations grouped themselves together as The National Peace Conference. I was asked to direct an educational program throughout the country on economic cooperation. I consulted Mr. Hiss about some of the speakers for a series of programs and what led up to an important national broadcast.

Q. Did Mr. Hiss suggest some speakers for this national broadcast program that you were working on? A. Yes, I believe he suggested Henry Grady and Paul Van Zeeland of Belgium.

Q. And did you write Mr. Hiss on some date in 1937 with reference to this recommendation that he had made of Mr. Paul Van Zeeland? A. I believe that Van Zeeland was here on a brief trip and I wanted to get hold of him and so Mr. Hiss wrote to the Embassy and he said that the contact had been successful.

Q. Was that program finally had in New York City?

MR. MURPHY: Your Honor, I am going to ask Mr. Cross, if this witness is a character witness, to come to the point of the character. I don't know that we are concerned with this man's problems really in so far as they relate to the issues of the case. I object specifically to the question as to whether the program was [4293] developed or undeveloped.

MR. CROSS: I will waive that.

Q. Did you say that Mr. Hiss also recommended to you Mr. Henry F. Grady? A. That is right.

Q. Was there some wire you received from Mr. Hiss with reference to this matter? A. Yes.

Q. July 12, 1937? A. Yes, I believe it refers to the fact that when Mr. Grady would arrive from Europe, and I cabled Grady and made arrangements to see him immediately upon his arrival.

Q. Now, did you have anything to do, Mr. Eichelberger, with the study or work on the Neutrality Law after war broke out in Europe and after the Hitler-Stalin Pact in the latter part of August 1939? A. May I say that my concern with the revision of the Neutrality Law went back to 1936, I believe.

Q. Had you been working on this during that time?

A. Yes. I worked with Senator Thomas of Utah and a group of Senators who were interested in the revision of the Neutrality Act to square with our obligation under the Kellogg Pact.

Q. Did you come in contact with Mr. Hiss in that connection? A. I would frequently discuss policies in my visits to Washington with Mr. Hiss. In 1937, I believe the spring of 1937, I discussed this whole question of [4294] revision of the Neutrality Act.

Q. Did you, after the Hitler-Stalin Pact in August 1939, have discussions with Mr. Hiss with reference to a revision, or possible revision, of our Neutrality Act?

A. I cannot fix the exact date, Mr. Cross, but during the early period of years I discussed with Mr. Hiss upon every opportunity this evolving program of our Association and our work for the revision of the Neutrality Law. I did so after the Hitler-Stalin Pact.

Q. Did you go to the San Francisco Conference, Mr. Eichelberger? A. Yes.

Q. In what capacity? A. I was there as a consultant.

Q. Representing the United— A. The American Association for the United Nations.

Q. Were there other consultants representing other organizations there? A. The State Department invited 42 national organizations to select one person and an alternate to be consultants.

Q. And you were there representing your organization?

A. Yes.

Q. Now, in 1947, after Mr. Hiss came to the Carnegie Endowment did you have contacts with him? A. I did.

Q. By the way, did you see Mr. Hiss at San Francisco?

A. I saw a great deal of Mr. Hiss in San Francisco, yes.

Q. Then in 1947, I think the date appears about early [4295] February, 1947, Mr. Hiss became the president of the Carnegie Endowment. After that was he elected to the Board of the United Nations Association? A. He was elected a member of the Board and member of the Executive Committee.

Q. And thereafter did he attend Board meetings and Executive Committee meetings of your Association?

A. Yes, and quite regular attendance.

Q. Did you have anything to do with the formation of the Committee For the Aid of the Marshall Plan?

A. A great deal, yes.

Q. Did Mr. Hiss work with you in that connection?

A. Very closely.

Q. Will you briefly tell his Honor and the jury just what Mr. Hiss did, from your observation, with reference to the work of this Committee formed in aid of the Marshall Plan, and you can give dates, if you can.

MR. MURPHY: Your Honor, I object to the question. I don't quite see the relevancy. Assuming that Mr. Hiss did, in fact, work there, that was some time after the war. We are dealing principally with facts in 1938 and late 1937. I don't think it is relevant nor material and I ask your Honor to take my objection quite seriously. We are going far afield and Mr. Hiss has been on the stand at length. How this man is going to expand what Mr. Hiss [4296] testified to I don't know. I do not believe it is relevant or material.

MR. CROSS: If your Honor please, Mr. Murphy has on more than one occasion, I won't attempt to say how many, questioned witnesses as to whether or not they had heard that Mr. Hiss was a Communist. He was interviewed by the FBI in the summer of 1947. He was before the grand jury and asked about his Communist activities, not in 1936 and 1937, but then, on March 16, 1948. Mr. Chambers, on August 3, 1948, said, not that Mr. Hiss was a Communist in 1936, '7 or '8, but "He is a Communist now," and I want to show what Mr. Hiss was doing during the period from 1947 on until Mr. Chambers made that statement, as showing the actual facts as to Mr. Hiss's activities, which we will show were contrary to every concept of the Soviet Government at that time.

Mr. Murphy has put in the evidence and we are merely showing what the facts are with regard to Mr. Hiss's activity at a time Mr. Murphy has inquired about and that Mr. Chambers has said Mr. Hiss was a Communist.

THE COURT: I suppose Mr. Murphy's position is that even though he was active in these other committees, that does not exclude his activity in the Communist Party, but we are nearing the end of the case and while this does seem to me remote, I think we had better go ahead.

[4297] Q. Now will you tell us, Mr. Eichelberger, just what Mr. Hiss's activity was with reference to this

committee. Perhaps you might tell us first briefly what the committee was? A. It was a committee of distinguished citizens to support the passage of the Marshall Plan legislation by Congress. I believe my notes show that shortly after General Marshall made his suggestion—

Q. About when was that? A. I believe that was in June, wasn't it? Early June?

Q. Of what year? A. 1947, and I believe it was in early July, approximately a month later, that the government of the Soviet Union walked out of a conference of the Foreign Ministers called to consider Secretary Marshall's suggestion.

Q. To consider the Marshall Plan? A. That is right.

Q. And where was that conference? A. That conference was in Paris. I had a number of conversations with Mr. Hiss and others of the Carnegie Endowment and various people as to the wisdom of organizing a committee to support the Marshall Plan.

Q. That was after the Soviet representative had walked out on the meeting? A. Yes. I believe it was in October of 1947 that Mr. Hiss and I saw Judge Patterson, former Secretary of War Patterson, and asked him to assist us in organizing a committee, and former Secretary, Henry L. [4298] Stimson, would be chairman of the committee. Judge Patterson said—

MR. MURPHY: I object to what Judge Patterson said.

THE COURT: I should think we are getting pretty far afield here, Mr. Cross.

MR. CROSS: I just want to hit the high spots here.

Q. That committee was formed, was it? A. That committee was formed.

Q. And was it a national organization? A. It was.

Q. Headed up by Henry L. Stimson? Did Judge Patterson go on the board? A. Oh yes.

Q. In that connection was there printed in the New York Times on November 16, 1947 an article by Mr. Alger Hiss, copies of which were later distributed through the

national organization of this Committee and through its regional officers throughout the country? A. That is right.

Q. And that is the article in the New York Times that I have laid before you? A. Yes, sir.

Q. And this was the reprint of that article that was distributed (handing)? A. I believe so, yes.

Q. Have you any notion about the number of copies of that distributed throughout the country? A. I should say a minimum of possibly 20,000 or 25,000 were distributed. [4299] They were in large quantity.

MR. CROSS: I am offering the article.

MR. MURPHY: I object to the self-serving declaration by the defendant. I do not know what purpose it serves. I cannot cross-examine anybody on it. Perhaps maybe the editor of the New York Times, but it is merely an article in that paper dated in 1947 or 1948,—

MR. CROSS: November 16, 1947.

MR. MURPHY: —by the defendant, which I have not read, with pictures. I don't think it is relevant.

MR. CROSS: If you want me to put in the one without pictures, I will be glad to put that in, But I think what one publishes in the New York Times—

THE COURT: What was the date of it?

MR. CROSS: November 16, 1947.

THE COURT: Aren't we concerned with 1937 and 1938 and along in there?

MR. CROSS: Not when the evidence is put in by Mr. Murphy about Mr. Hiss being called before the grand jury in March 1948 and being asked whether he was then a Communist.

MR. MURPHY: Your Honor, I will withdraw the objection. Let me read it first and then we can go on.

THE COURT: Is it a long article?

MR. CROSS: I am only going to read one paragraph [4300] and I will mark the whole article and I will show Mr. Murphy the one paragraph that I am going to read and he can read any other part he wants.

MR. MURPHY: I have withdrawn the objection, your Honor.

(Marked Defendant's Exhibit 6 x Q.)

MR. CROSS: November 16, 1947.

Ladies and gentlemen of the jury, this is the article that appeared in the New York Times Magazine entitled "Basic Questions In The Great Debate. Here are the five most often asked about the Marshall Plan and an attempt to answer them."

The whole article has been marked. I am only going to read this one paragraph.

"Strategically our abandonment of Europe would expose 270 million people and the world's second greatest industrial complex to absorption in the vast area already dominated by Communist ideology and by Soviet interests."

Q. How often did the Committee meet, the Committee to aid the Marshall Plan? A. The New York Committee of about ten members met weekly.

Q. And, then, was there finally legislation passed in Congress approving the Marshall Plan? A. Yes, sir.

Q. And this Committee was to aid in trying to bring about [4301] that passage? A. That is right.

Q. And when was that passage, just for the record, if you remember, approximately? A. I am sorry, I don't remember the exact date. It was—

Q. In the spring of 1948, was it? A. Yes, sir.

Q. After that—or, when was it, if you remember, that Mr. Hiss went on your board, on your Executive Committee? A. I think it was in the spring of 1947.

Q. And did he regularly attend meetings? A. Yes.

Q. How frequent have your contacts with Mr. Hiss been since 1937? A. I should say that in 1937 and 1938, 1939, they were very frequent. I should say that during the period of 1942 to 1943, when I was on Sumner Welles' committee, Mr. Hiss was at that moment not assigned to that work, they were less frequent. When Mr. Hiss became in charge of the Political Division of the Department of State that took the material that the Welles Committee

drafted and improved upon it and took it to Dumbarton Oaks and San Francisco, my contact was again very frequent.

Q. How about after he came here as president of the Endowment? A. I should say then it was a matter of weekly contact.

Q. You have heard others speak of Alger Hiss, have you, Mr. Eichelberger? A. I have.

Q. What is his reputation for loyalty, integrity and [4302] veracity? A. I should say that for loyalty, integrity and veracity it was excellent.

MR. CROSS: You may inquire.

Cross Examination by Mr. Murphy:

Q. I don't believe you told us, Doctor, what your college was, did you? A. I was a student at Northwestern University before the first World War, and the University of Chicago afterwards.

Q. And during the 30s were you identified with any particular organizations that you haven't told us about?

A. I said there were a number of collateral organizations. There was the William Allen White Committee, the Committee to Defend America by Aiding the Allies. There was the Committee for the revision of the Neutrality Law.

Q. Let's see. Were you the National Director for the Committee to defend America by keeping it out of the war?

A. That was not the name of it, sir.

Q. What was the Committee's name? A. The Committee to Defend America by Aiding the Allies.

Q. And you were the National Director of that Committee?

A. That is right.

Q. And did that Committee last after the—how long did that Committee last? Is it still in existence?

A. No. The Committee lasted until Pearl Harbor.

Q. Until Pearl Harbor. And did it last—was it most [4303] active around the time of the Hitler-Stalin Pact?

A. Yes. It was organized before and active through that period.

Q. And you were also on another committee that had something to do with youth or something, American youth?

A. No, I was never on such a committee.

Q. Were you on the American Youth Congress?

A. No, sir.

Q. On the National Advisory Committee to that Congress?

A. No, sir.

Q. Were you a sponsor of the Spanish Refugee Relief Committee? A. For a while I was a member of the committee that was interested in bringing some Spanish refugees in Southern France to Latin America. The Communists wrecked the committee.

Q. Now, the question was, were you a sponsor of the Spanish Refugee Relief Committee? A. I am not sure that—there were a number of Spanish refugee relief committees. I am not certain as to the exact title of the one I was on. I can only say it was a committee concerned exclusively with bringing Spaniards in Southern France to Latin America, and the Communists wrecked the committee and I withdrew because of the Communists efforts to take over the committee.

Q. Were you a member of the American Youth Congress [4304] of Youth? Were you a sponsor of that American Youth Congress? A. No, sir.

Q. And it was during '38, '37, '39 that you were very frequently in contact with Mr. Hiss? A. Yes, sir.

Q. And that is the time when you were a member of that committee to keep us out of war? A. That committee was organized in—

Q. Yes, but you were a member of that committee?

A. —in 1940. That is right. It was not a committee called a committee to keep us out of war, sir. That is a confusion with the America First Committee. It was a Committee to Defend America by Aiding the Allies. It was organized in the spring of 1940.

Q. And at that time you did not hear, did you, that Mr. Hiss was a Communist? A. No, sir.

Q. Nor did you hear during those years that you saw him very frequently that he was taking papers out of

the State Department and giving them to somebody unauthorized to receive them? A. No, sir.

Q. Have you been subpoenaed here, Mr. Eichelberger?

A. No, sir.

MR. MURPHY: You may examine.

MR. CROSS: That is all, Mr. Eichelberger. Thank you very much.

(Witness excused.)

[4305] MR. CROSS: If your Honor please, I would like to have marked here as an exhibit, which is nothing but a chart showing the number of State exhibits, a description of the documents and the distribution, for the convenience of the jury if they consider the material. This is not offered as evidence; it is merely a chart such as the Government put in, on the residences of the Hisses, and also with regard to the camera that was put in.

MR. MURPHY: Subject to correction, whatever you say.

THE COURT: Exhibit 6 x R is that?

MR. MURPHY: Sorry, sir.

MR. RYAN: 6 x R.

THE COURT: That is the number of the exhibit.

THE CLERK: Yes, sir, 6 x R.

MR. MURPHY: I have no objection, your Honor, subject to the usual statement—corrections and exceptions.

MR. CROSS: Oh yes, surely.

[4306] Ladies and gentlemen, I am not going to read this; I am simply going to hand you a number of these charts, one for each one of the jury, which I will ask the Madam Forelady to pass along, and then I will explain briefly when it has been handed to you what it is.

(Charts handed to each juror.)

MR. CROSS: Ladies and gentlemen of the jury, in the first column is the number of the State exhibit numbers. It begins with Exhibit 5, the first four Baltimore exhibits and the first four underlying State documents relate to the handwritten memoranda, so this begins with

the underlying documents for Baltimore 5 and it runs through 47.

In the second column there is a description of the document itself. In certain cases such as Exhibit 9, for instance, there are three different cablegrams. In the case of Exhibit No. 11 there are 15½ or really 16 underlying documents, and so on. In some cases you will find one underlying document; in some cases two, up to 16.

In the third column there is a distribution, "FE," meaning Far Eastern; "SA" mean Pasvolsky's office in the Trade Agreements Section; and "TA" meaning Trade Agreements.

The exhibit, as you will see, shows that every one [4307] of these documents either went to FE, SA—Pasvolsky's office, or Trade Agreements.

Now, the asterisks, for instance in 11-A-2, indicate that that did not go to Mr. Sayre's office. Then you will find that asterisk opposite 10—that is the one that went to Far Eastern; the Military Intelligence dispatch that went only to FE—applies to Exhibit 13, to No. 2, and 42-A—there may be one other, I am not sure. No. 2 and 42-A.

MR. MURPHY: I don't understand. You say except with the asterisks they all went to Mr. Sayre's office?

MR. CROSS: I think that is true.

MR. MURPHY: And I think you said Mr. Pasvolsky was in the Trade Agreements?

MR. CROSS: I said the Trade Agreements Section. His office was in the Trade Agreements Section.

MR. MURPHY: On the same floor.

MR. CROSS: Well, it has been described. If you want me to tell you a little more about the—I don't think you do.

Now, I would like to have you stipulate, Mr. Murphy, subject to check the following dates for the filing of pleadings in the so-called Baltimore libel suit.

[4308] MR. MURPHY: Whatever you say is all right, Mr. Cross.

MR. CROSS: That the complaint was filed on September 28, 1948; that the supplemental complaint was filed on August 7, 1948—

MR. MURPHY: August 7?

MR. CROSS: —October 7, 1948; that the answer to the complaint was filed October 25, 1948; that the answer to the supplemental complaint was filed October 25, 1948; that the notice to take Mr. Chambers' deposition was dated October 25, 1948, to take his deposition on November 4, 1948.

I would like to read into the record the Rule of Civil Procedure governing the taking of depositions in pending actions, Rule 26 of the Federal Rules of Civil Procedure:

"Rule 26.

"Depositions Pending Action.

"(a) When Depositions May Be Taken. Any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the action or for both purposes. After commencement of the action the deposition may be taken without [4309] leave of court, except that leave, granted with or without notice, must be obtained if notice of the taking is served by the plaintiff within 20 days after commencent of the action. The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45. Depositions shall be taken only in accordance with these rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

"(b) Scope of Examination. Unless otherwise ordered by the court as provided by Rule 30 (b) or (d), the deponent may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence."

[4310] That is Rule 26 (a) and (b).

I would like to get a stipulation, Mr. Murphy, without putting in two of the registers of the Department of State, that neither the register of July 1, 1936 or the register of October 1, 1937 or any subsequent register of the State Department contains the name of Noel Field as a then employee or officer of the State Department.

MR. MURPHY: Whatever you say is all right.

MR. CROSS: Well, I have personally checked, and it will save marking the two documents.

MR. MURPHY: All right.

MR. CROSS: There is what is, I think, obviously a stenographic error in the testimony of Mr. Rabinavicius; I don't know just how we can deal with it—

MR. MURPHY: Your Honor, I don't think we should discuss the error before the jury. I am sure Mr. Cross and I can agree on it, whatever it is.

MR. CROSS: That is what I am going to ask, that I talk with Mr. Murphy and also with the stenographer on that point, so that we can straighten it out. I saw it over the weekend.

Subject to, if your Honor please, and with the request that if a witness or witnesses that I am checking on, on information received this morning that I may wish to put on at a later time due to the fact that I did not [4311] know of this matter—which may come to nothing—the defendant has concluded subject to correction of this record, has concluded its evidence in defense, but I would like to reserve the right, if I want to put on a witness with regard to a single point at a later time, if our investigation suggests the feasibility of doing so.

I understood at an earlier time that Mr. Murphy would not object to going ahead with other witnesses. I do not know that I shall, but I merely mention it so as to preserve any rights that I might have if I want to do so.

With that reservation, and with the correction of the testimony which I assume we can agree upon, that will be the defendant's case.

THE COURT: The defense rests.

Now, Mr. Murphy, you have some witnesses in rebuttal?

MR. MURPHY: Yes. We can start that after lunch.

THE COURT: We will adjourn now until a quarter after two.

(Recess to 2:15 p. m.)

[4312] Afternoon Session

MR. MURPHY: Mr. Cross and I have agreed on the change in the record and when we get a chance we will just change the one word in your Honor's copy.

THE COURT: Very well.

GEORGE NORMAN ROULHAC, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Sergeant, did you in the late '30s live in Washington, D.C.? A. Yes, sir.

Q. And did you ever live in a house on P Street? A. Yes, sir.

Q. What number P Street was that? A. 2728.

Q. Is that up in the Georgetown section of Washington? A. Yes, sir.

Q. And prior to P Street where had you lived? A. 25th Street NW.; 32nd Street NW.

Q. When you were living at P Street do you remember when that was? What year? A. '38.

Q. And did you sign a lease for that house? A. Yes.

Q. And who lived there with you? A. Clidi Catlett and her boys and Mr. and Mrs. Alice Brogan.

Q. What boys were those? Clidi Catlett's boys?

[4313] A. Yes.

Q. Perry and Raymond? A. And Mike.

Q. And do you remember the day when you moved in? A. About the middle of January.

Q. I show you this lease for 2728 P Street and ask

you whether that is your name as one of the people that signed the lease? A. Yes.

MR. MURPHY: I offer that in evidence.

MR. CROSS: I take it you are not offering the pencil notation on the back of it? I have not any objection.

MR. MURPHY: No. I will rub that out.

MR. CROSS: Don't rub it out. Just have it understood that is not offered.

(Marked Government's Exhibit 70.)

THE COURT: The date of that lease, Mr. Murphy, is what?

MR. MURPHY: Made the 17th day of January 1938.

Ladies and gentlemen, this is a lease dated January 17, 1938, between Emma W. Stevens and George Roulhac for the premises 2728 P Street to commence the 18th of January, 1938, at $30 a month, payable in advance.

Q. Now, Mr. Roulhac, did you move in, do you remember, on the 17th or the 18th of January?

A. Moved in the same day we signed that lease.

Q. Same day? A. Yes.

[4314] Q. What did you use for lighting? A. Candles.

Q. Candles the first day or forever? A. Just that first night. The light was turned on next day.

Q. The electricity was turned on the next day? A. Yes.

Q. What did you cook with? A. There was a cook stove already in the house.

Q. What do you mean by a cook stove? A. Coal stove.

Q. And is that the means that you or Mrs. Catlett cooked the food? A. Yes.

Q. On the coal stove? A. Yes.

Q. How did you heat the house? A. Had oil heat; little oil burners into the rooms.

Q. Didn't you use gas at all? A. No.

Q. Now where had you lived immediately prior to moving into the P Street house with Mrs. Catlett and the boys on January 17, 1938? A. On 25th Street.

Q. And did Mrs. Catlett and the boys live over there too on 25th Street? A. Yes.

Q. Now, Mr. Roulhac, did there come a time at all when you saw a typewriter in the P Street house?

A. About three months after we lived there.

Q. Do you remember what kind of a typewriter it was?

MR. CROSS: What was that answer?

(Record read.)

[4315] Q. Where did you see it? A. Out in the hallway.

Q. What kind of a typewriter was it? A. I don't know the make of it.

Q. There is a typewriter here in evidence. Can you tell whether that is the typewriter you saw?

A. It was the same design like, but I never noticed the exact make, whether Underwood or any other kind, but that is the same design of it.

Q. You were there about three months when you first saw the typewriter? A. Yes, sir.

Q. And were you living there every day? A. Yes, sir.

Q. Did you see anybody use it? A. The keys were stuck on it.

Q. Did you see anybody use it at all? A. Oh, Patty used to bang on it and his girl friend. Sometimes I would hit it myself.

Q. Where was it kept when you saw it? A. Out in the hallway on the washing machine.

Q. And you did not see it until three months after you moved in? A. Yes, sir.

Q. And you were there every day and night? A. Yes, sir.

Q. Did you inquire of either of the boys there, or Mrs. Catlett, where it came from?

MR. CROSS: Just a moment, if your Honor please, [4316] I don't see how the defendant could be bound by some talk he had—

THE COURT: I think that the answer would be yes or no.

Q. Just answer yes or no to that, Sergeant, if you know. A. I asked Patty—

Q. Don't tell us what he said. Did you inquire where it came from? A. Yes.

Q. And you inquired of the boy, Pat? A. Yes.

Cross Examination by Mr. Cross:

Q. Sergeant, how long have you been in the Army? A. I was drafted in '41, came out after the war, and re-enlisted in 1948.

Q. You were where in 1948? Where were you stationed? A. 1948 I left to go into the Aleutian chain in Alaska.

Q. Alaska. How long have you been back in the States? A. I came back September the 24th.

Q. Of what year? A. 1949.

Q. Been here ever since? A. I was in Seattle for about ten days, and then I came back to New York.

Q. How long have you been in New York? A. I have been at Fort Slocum since October 26.

Q. You mean you were transferred down here? A. I came back for reassignment.

Q. When did you first see any member of the FBI? [4317] A. In August I think it was.

Q. August what year? A. Of '49.

Q. Where was that? A. In Anchorage, Alaska.

Q. How many did you see up there? A. One fellow.

Q. When is the next time you saw an FBI man? A. I was at Fort Slocum; when I got here.

Q. When you got here. And, then, how many times have you seen FBI representatives since you have been here? A. About three or four times I think.

Q. How many times have you been in the court building? A. I don't know exactly how many times I have been in the court building, but about three or four times on different occasions.

Q. I beg your pardon? A. I have been there about three or four times on different occasions.

Q. Well, when, first? A. The 1st of November.

Q. The 1st of November. And when next? A. December 13th.

Q. You were here when the Catletts were here, weren't you? A. Yes.

Q. You saw them? A. Yes.

Q. You didn't speak to them, did you? A. Yes, I spoke to them.

Q. You did? A. Yes.

Q. Who were you with when you saw them? A. Who was I [4318] with?

Q. Yes. A. I wasn't with no one in particular.

Q. Were you reporting to an FBI man that morning? A. No.

Q. Who did you speak to? A. Who did I speak to?

Q. Yes. Which one of the Catlett boys? A. I spoke to Mike, I spoke to Mrs. Catlett.

Q. Now, you signed this lease. I notice there is an X down there. Do you know how that happened to be put on there, opposite your name? A. No, I don't.

Q. Well, do you remember where it was you signed this lease? A. On Wisconsin Avenue, real estate office.

Q. I want to show you some pictures, Sergeant. I show you Defendant's Exhibit VVV. Do you recognize that picture? A. Yes.

Q. What is that picture? A. It is just 2728 P Street.

Q. The rear part of the house? A. The rear part?

Q. Is that the rear or the front? A. That's the front.

Q. The front. Was it in that condition in 1937, '38?

A. Flowers and weeds in the front.

Q. I show you Exhibit VVV-4 and ask you if you recognize that picture? A. I think this is the back where the hallway—

Q. The hallway. Is that a closet there? A. Yes, right [4319] under the steps.

Q. Closet? A. Yes.

Q. I show you V-3. What is this picture? A. I don't recollect this picture.

Q. I beg your pardon? A. I don't recollect this picture. I have never seen it, to my remembrance.

Q. Let me show you V-1. What is this one? A. This is the back.

Q. The back. Now then, I show you another one, V-2. Do you recognize that? A. Yes, that is the back of 2728 P Street.

Q. Now where was the hallway that you say that you saw the typewriter? A. Right here (indicating).

Q. Right where? Will you hold it up and let the jury see it? A. This is the hallway going straight down there (indicating); the steps over to the left.

Q. Where was this den that they had? A. The room upstairs was the den.

Q. What did they have up there? A. Oh, all kinds of junk.

Q. What? A. All kinds of junk.

Q. Well, for instance? A. Baseball, gloves, bats. Pat had some old radios up there, and everything else.

Q. What did they use it for? A. Just throw the junk in it.

[4320] Q. No. I mean the place where they held these dances. A. The dances?

Q. Yes. A. That wasn't in the den. That was downstairs.

Q. Oh, downstairs. Where was that with reference to the hall where you saw the typewriter?

A. That was the front room on the basement floor.

Q. And how often would they have those dances? A. The boys would have their friends in. I don't know how often they had the dances.

Q. Well, did you attend them? A. No.

Q. Do you know whether in Washington at the time you signed the lease the landlords were reluctant to have a woman sign a lease? A. No, I don't know about that.

MR. CROSS: That is all.

Redirect Examination

BY MR. MURPHY:

Q. Sergeant, I want to ask you just about where you were at the time of the last trial. The last trial commenced on May 31st and concluded on July 8th. What part of the United States were you in at that time? A. I left Septem-

ber 13, 1948, to go to Alaska. I didn't come back until September 1949.

Q. What island were you in in the Aleutians—A. Adak.

Q. —last June? A. Adak, Alaska.

Q. Adak? A. Yes.

[4321] Q. You came back here in October? A. Yes.

Q. And you were in the war, in the Army, since 1941? A. I got out after the war was over and re-enlisted in '48.

Q. Mr. Cross asked you about an X on the lease. Do you write? A. Yes, sir.

Q. And back in 1938 you could write, couldn't you? A. Yes, sir.

Q. You have been able to write since you have been to school? A. Yes, sir.

MR. MURPHY: All right. Thank you, Sergeant.

MR. CROSS: Thank you, Sergeant.

(Witness excused.)

JOSEPH S. SAGONA, recalled as a witness on behalf of the Government, in rebuttal, having been previously sworn, testified further as follows:

Direct Examination

BY MR. MURPHY:

Q. You have testified before in this trial, have you not, Mr. Sagona? A. Yes.

Q. Will you tell the jury again what your title is and where you work? A. I work in the Division of Finance as administrative officer in the State Department.

Q. Do you have under your jurisdiction the records relating to the annual and sick leaves of the members of the State Department? A. Yes.

Q. Would you tell us, please, Mr. Sagona, what the [4322] official records of the State Department show with regard to annual or sick leave for a man named Mr. Alger Hiss during the years 1936 and 1937, particularly the month of December of each year, December and January.

A. May I refer to the photostats?

Q. Oh yes, look at your records. A. For the year 1936, you say, in December?

Q. Yes. Well, let us take the last three months of the year 1936. A. There is no leave taken either sick or annual leave in 1936.

Q. Now look for, say, January 1937. A. There is no leave taken in January.

Q. And December of 1937? A. No leave also taken at that time.

Q. No leave? A. No leave.

Q. Annual or sick? A. Neither.

MR. MURPHY: You may examine.

Cross Examination

BY MR. CROSS:

Q. What do you mean, "annual leave," Mr. Sagona? What do you mean "annual leave"? A. Annual leave is a privilege which accrues to the employee to take off at any time that he desires with the approval of his office. In other words, a leave may be used for any purpose that he wants; generally used toward vacation.

Q. You mean you haven't got any leave for Mr. Hiss [4323] for the year 1937; is that what you mean? A. I say no leave was taken in 1936.

Q. I thought you said 1937 neither. A. Well, Mr. Murphy asked for two specific months in 1937; he asked in January 1937 and in December of 1937.

Q. Do I understand that you were limiting your answers to questions directed to the point as to whether or not Mr. Hiss took any annual leave or sick leave in the months of January and December 1937, only for 1937; is that correct? A. His question is what leave did he take in 1937, January and December, and our records show that he took no leave of any kind.

Q. For those two months? A. That is correct.

Q. But your records do show— A. A leave at other times during the year.

Q. At other times during the year? A. Yes.

Q. Now, will you tell us what your records show for other leaves taken during the year? A. In 1937 in the month of July, on July 10, he was off for four hours; on July 17, again four hours; on July 19 through the 31st, that

would be for the full week—I will put it differently—the record shows he was on leave from July 19 through the end of the month, July 31. Then in August he was also on leave for the first part of August from the 2nd through the 14th.

[4324] Q. Now, when you say four hours, that is a Saturday, isn't it? A. That is a Saturday. At that time we were on a 5½ day week.

Q. And the 10th of July was a Saturday? A. I presume so from the basis of this, yes.

Q. And the 17th is four hours—that is a Saturday? A. Yes.

Q. And the 24th is four hours, and the 31st is four hours, and then August 7 was four hours too?

A. That is correct.

Q. And August 14 was four hours? A. Yes.

Q. And then August 15 was a Sunday? A. That is correct.

Q. And he was back on the job, according to your records, as far as any leave goes, on August 16? A. That is right.

Q. Now, did he take any such vacation in the year 1936 or were you limiting your answer strictly to some month or months? A. No, in 1936 our records show that no leave of any type was taken.

Q. In other words, for the entire year of 1936 Mr. Hiss took no— A. No, not for the entire year. I can only answer for the time that he entered on duty in the State Department.

Q. And that was September 1? A. That was September— [4325] so that would be for the last part of 1936 no leave was taken.

Q. I think the record shows he entered on September 1, 1936. So the first leave he took was beginning in July 1937? A. That is right.

Q. Now, Mr. Sagona, when people who have accumulated leave time take it off, there is generally no record made of that, is there? A. When they have accumulated what?

Q. When they have not taken any leave time. Let me put it this way: how are these records made up? A. At that time when an employee wished to take leave an employee had to submit what was referred to as a leave coupon.

Q. That was made up by his department, wasn't it? A. No, it was prepared by the employee. There were two halves to the coupon. The complete coupon was forwarded through the office channels, and the one-half would be returned to the employee showing him what leave balance he had.

Q. Well, that was made out by the employee himself, wasn't it? A. That is right.

Q. And that was the basis of whatever records were made up, for any sick or annual leave? A. That is right.

Q. Now, if an employee with the approval of the head of his department who had not taken time off or had [4326] been working overtime took a day or two off and would not put it in, you would not have any record, would you? A. No, the employee could not do that because until recently that was prohibited by statute.

Q. No, but I say if that was done with the approval of the man who was head of the department you would not have any record, would you? A. The department head would not have the authority to do that.

Q. But, I say, you would not have any record unless it was made out by the employee, would you? A. That is correct.

MR. CROSS: That is all.

MR. MURPHY: Thank you, Mr. Sagona.

(Witness excused.)

HENRI P. HENRY, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination

BY MR. MURPHY:

Q. Mr. Henry, you are in the real estate business in the District of Columbia, Washington, D. C., are you?

A. Yes, sir. I am.

Q. With what company? A. With the Randall H. Hagner & Company, Inc.

Q. Back in 1938 was that company the agent for the corner building at Connecticut and K Streets known as [4327] 1000 Connecticut Avenue? A. Yes, sir, we were.

Q. And do you remember whether or not that building had a drugstore at the corner? A. Yes, sir, it did.

Q. Did it have one in 1938? A. Yes, sir.

Q. And did there come a time when a lease was entered into for the Woodstock Typewriter people in that building? A. Yes, sir, it did.

Q. Do you know when it was? A. If I remember correctly it was September 15 of 1938 for a period of two years.

Q. In other words, the Woodstock Typewriter Company became a tenant in the building September 15, 1938?

A. That is as I recall the date, sir. You have a card—

Q. Yes. This is part of your records, is it not (handing)? A. Yes, sir. This is our rental application card. It happens to be my printing, sir.

Q. In other words, you keep a card in your office records with the pertinent information when you make a lease, is that right? A. That is correct, sir.

Q. And that card is not only from your records but made in your handwriting? A. Yes, sir, that is right.

Q. Was it your practice to keep a record such as this? A. Yes, sir. That is done every time a new tenant is taken on.

Q. And it was the regular practice to do that [4328] for each new tenant that came on? A. That is correct, sir.

Q. And this card itself is from your business records? A. Yes, sir.

Q. Do you have the lease itself? A. No, sir. We don't have the lease. We only keep leases for a certain period of time and then dispose of them.

MR. MURPHY: I offer this card in evidence.

MR. CROSS: No objection.

(Marked Government's Exhibit 71.)

MR. MURPHY: Ladies and gentlemen, this is a small card dated August 20, 1938, and is entitled "Rental application. Randall H. Hagner & Company"—

Q. That is your employer still? A. That is correct, sir.

MR. MURPHY (Continuing): —Woodstock Typewriter Company, present address 1528 K Street NW., and amount of rent and room number 1 and 2, 1000 Connecticut Avenue, for period of two years commencing September 15, 1938.

Q. Where was room 1 and 2, Mr. Henry?

A. Rooms 1 and 2, sir, were on the second floor of the building, on the corner, directly over the drugstore, sir.

Q. I show you a picture, already in evidence as Government's Exhibit 59, and ask you whether that is the picture of the building, and if you can point out to the jury where the space was that the Woodstock Typewriter [4329] people had pursuant to the lease that you have described? A. Yes, sir. That is a picture of the building. The second floor, the space occupied by the Woodstock people, covered the area from this window (pointing) on around, and as I recall to this second window, being rooms 1 and 2, this one being the window of the corridor, the entrance being at this point (pointing).

Q. There is a radio station there now? A. Yes, sir. They have the entire floor now, sir.

MR. MURPHY: You may examine.

Cross Examination

BY MR. CROSS:

Q. Mr. Henry, where was this Woodstock Typewriter Company located before they came to your premises?

A. 1528 K Street, sir.

Q. How far was that from the premises? A. I would say approximately 2½ to 3 blocks; somewhere along in there. Well, in terms of Washington, from Connecticut to 17th, to 16th, to 15th—about 2½ blocks I would say.

Q. You testified at the first trial? A. Yes, I did.

Q. Were you asked these questions on cross-examination:

"Q. How far away is that from the corner of K and Connecticut? A. Well, 15 would be between 15th and 16th Streets.

"Q. Well, we are not as familiar with Washington as [4330] you are. Would that be a block away or a block and a half? A. About a block and a half away, that is right.

"Q. On K Street? A. On K Street, yes.

"Q. Can you tell us whether or not it is a fact that that in their premises on 1528 K Street this Woodtsock Company was located on the ground floor? A. I don't know that.

"Q. Your familiarity with the neighborhood does not enable you to help us on that? A. Not on K Street."

Were you asked those questions and did you give those answers? A. Yes, as I recall it, sir.

Q. Were they correct? A. Yes, I would say they are substantially correct. The question of the distance from Connecticut Avenue to 17th Street—Connecticut Avenue bisects between 17th and 18th and it would be depending whether you call that a block.

Q. It is a short distance? A. From Connecticut to 17th; a full block 17th to 16th, and another block from 16th to 15th, and I don't recall just where 1528 would be between that; whether nearer 15th or 16th Street.

Q. The premises that you were agent for was at 1500— A. No, sir, 1000 Connecticut Avenue.

Q. And is that the intersection of Connecticut and K? A. That is correct, sir.

[4331] Q. And you say that 1528 K Street would be about a block and a half or perhaps— A. Well, a block and a half or two blocks, along in there.

Q. On this in your handwriting you say "Present address 1528 K Street NW," do you not? A. That is right.

Q. So you knew where this Woodstock Typewriter Company had been before you leased these premises? A. That is the address they gave at the time they made the application.

Q. I mean you did not check it but just accepted their statement? A. That is right, sir.

MR. CROSS: Thank you very much.
(Witness excused.)

WALTER M. HEBB, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mr. Hebb, you are also in the real estate business, are you, in Washington? A. Yes, I am.

Q. And what is the name of your firm? A. Tyler & Rutherford, Inc. I am vice-president of that firm.

Q. At one time were you people either the agents or the owners of property at 1528 K Street in Washington? A. Yes, we were the agents.

Q. Can you tell this Court and jury from your [4332] records whether or not there was a tenant there by the name of The Woodstock Typewriting Company?

A. Yes. The Woodstock Typewriter Company rented the first floor, 1526-28 K Street NW., in Washington. The lease was dated March 29, 1938. It was a two-year lease, with an option for a renewal of three years, that is, from the expiration of the two years. The lease was—

MR. CROSS: Have we got the lease? He has given the terms of the lease. I think we ought to have the lease.

THE WITNESS: I have it.

Q. Well, do you have the lease? A. I have the lease.

Q. All right. A. (Referring to papers.)

Q. Would you take it out and then we will photostat it and give it back to you? A. Yes, sir. Just a second; it will take me a minute. (Hands paper to Mr. Murphy.)

Q. Thank you. Now, this is the lease that you started to describe? A. Yes, it is, sir.

(Mr. Murphy hands paper to Mr. Cross.)

MR. CROSS: No objection.

MR. MURPHY: I offer in evidence the lease.

(Marked Government's Exhibit 72.)

Q. Now, Mr. Hebb, this is a lease between a Mr. Batson as lessor and the Woodstock Typewriter Company for the premises 1526-28 K Street in Washington for a [4333] term of two years, to commence on May 1, 1938, and it contains a cancellation clause, as I remember it.

A. That is correct, sir.

Q. Now although the lease is to commence on May 1, 1938, it is signed on the 29th of March, 1938; is that correct? A. That is correct.

Q. Now do you know whether or not, pursuant to the terms of the lease, the typewriter concern went into possession on May 1938 and tell us, if you know that, how long they stayed? A. They did move in the premises, and it was sold, the property was sold, and they were given notice dated June 15, 1938, served on them on June 18, 1938, to vacate within 90 days because the property had been sold.

Q. Maybe it will help us if you can tell us from your records how many months rent you collected. Can you tell us that? A. Yes, I can. We collected two months rent. Now, under the terms of that cancellation clause, if we served notice on them they were to receive 90 days rent free. So we collected two months from them and on July 21, 1938, we returned to them $58.50 that was for the portion of the June rent, from June 18th to the end of June 1938.

MR. MURPHY: You may examine.

MR. CROSS: No questions, Mr. Hebb. Thank you.

[4334] MR. MURPHY: Thank you very much. Will it be all right if I photograph this and mail it to you?

THE WITNESS: Yes, sir.

MR. MURPHY: Thank you.

THE WITNESS: Thank you.

(Witness excused.)

LISH WHITSON, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mr. Whitson, you are with the FBI, are you? A. I am a special agent of the FBI.

MR. CROSS: May I inquire, Mr. Murphy, if this gentleman has been in the courtroom during the testimony of any witness? Because all witnesses, on counsel for the Government's motion, were excluded. I don't know which one of the FBI and which one of the witnesses have been present in the courtroom.

MR. MURPHY: Supposing I ask him.

MR. CROSS: I shall object. Well, I don't know. I raise it now because I shall object to any witness who has been in the courtroom, where we have scrupulously followed that, except for Dr. Binger and Dr. Murray, where we had special permission. If he has not been in, then it is not timely. But I do want to raise that [4335] point with every witness who has been in the courtroom and listening to testimony.

Q. Have you been in this courtroom, Mr. Whitson? A. No, sir.

Q. And you give that statement under oath, do you not? A. Yes, sir.

Q. Now, Mr. Whitson, you are with the FBI, you say? A. Yes.

Q. And are you the agent who interviewed Mr. Hiss in Washington on March 25, 1946? A. Yes, sir.

Q. And are you the gentleman who had prepared at that time a memorandum dated on that day, which is now in evidence as Defendant's Exhibit 5 x F (handing)? A. Yes, sir.

Q. And did you prepare that from notes that you took at the time you interviewed Mr. Hiss? A. Yes, sir, that was prepared immediately after.

Q. Mr. Hiss said that what is contained in this memorandum is substantially correct—

MR. CROSS: What is the number of that?

MR. MURPHY: 5 x F.

Q. —is substantially correct except that you got confused I think when you said it was Mr. Hiss's recollection that the two—to go back a little bit further, your second paragraph says, "Honorable James F. Byrnes, Secretary

of State, spoke to Hiss regarding the [4336] report of two separate committees on the Hill which had listed persons belonging to subversive groups and both had listed Hiss. It was Hiss's recollection that the two committees might possibly have been the House Committee on Un-American Activities and a Subcommittee of the House Military Affairs Committee."

Mr. Hiss said that what he said was not that these committees had mentioned him, but that some members of Congress. Now, have you examined your original notes, Mr. Whitson? A. Yes, but they are not as complete as that.

Q. But do the notes record and do you now testify that it was the Committee or members of the Congress? A. Two separate committees.

Q. Committees? A. Yes, sir.

Q. And you say you dictated the memorandum that very day? A. Yes, sir.

Q. From the notes that you took? A. From the notes and from the immediate recollection.

MR. MURPHY: Thank you. You may examine.

MR. CROSS: No questions.

MR. MURPHY: Thank you, Mr. Whitson.

(Witness excused.)

[4337] DONALD D. CONNORS, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mr. Connors, you are a special agent with the FBI, are you? A. Yes, sir.

Q. And are you attached to the Washington field office? A. I am, sir.

Q. And were you there in the early part of this year? A. Yes, sir.

Q. Last year, rather, 1949. A. Yes, sir.

Q. Did you interview a man by the name of Catlett, Mike Catlett? A. Yes, sir.

Q. How many times did you talk with Mr. Catlett? A. I talked with him on four occasions.

MR. CROSS: Has he been in the courtroom?

Q. Have you been in the courtroom? A. Yes, sir.

Q. What day were you here? A. December 16 or very closely thereto.

Q. And was that the day I asked you to be present so as to be identified by Mike Catlett? A. Yes, sir.

Q. Were you sitting back there, and I asked the witness whether that was the man he went on this automobile ride with? A. Yes, sir.

Q. And were you sitting next to a man named Jones? [4338] A. Yes.

Q. And did you leave the courtroom then after that? A. Yes, we did.

Q. Have you been in the courtroom since? A. No, I have not.

Q. Now—

MR. CROSS: Do I understand that he heard no testimony whatever?

MR. MURPHY: Well, your Honor, it seems to me that I have identified when the witness was in the courtroom and what the purpose was.

Q. I assume you were listening to part of the testimony, were you? A. That is correct.

MR. CROSS: I call your Honor's attention to Mr. Murphy's motion made on page 66:

"Your Honor, would you direct that all witnesses be excluded from the courtroom?

"The Court: Yes.

"Mr. Cross: Does that include Mrs. Hiss?

"Mr. Murphy: No, I am excepting Mrs. Hiss.

"The Court: With that exception, other witnesses are to be excluded."

It seems to me in view of that, that witnesses who have been here and heard testimony, even if it be only the part up to the time when he was asked to stand up [4339] and identify someone or be identified, after having heard the testimony, that disqualifies the witness under your Honor's ruling.

THE COURT: I think it would depend on how much of the testimony he has heard other than what was necessary for identification. Supposing you ask him, Mr. Murphy.

Q. Well, prior to that day were you in the courtroom at all? A. No, sir, I was not.

Q. And on that day how long were you here? A. I would say perhaps a half hour.

Q. And what man or woman was on the stand? A. Mike Catlett or Raymond Sylvester Catlett was on the stand when we came in.

MR. MURPHY: Your Honor, I submit that is the only way to identify someone, and he is under no restrictions so far as your Honor's orders are concerned. It does not disqualify him a bit.

MR. CROSS: My memory—I hesitate to speak when we have spent the period of time we have here; I am having it checked up—but my memory is that the entire testimony on a particular point had been concluded, and then Mr. Murphy asked—

THE COURT: Are you objecting to this witness's testimony on this particular point, Mr. Cross?

[4340] MR. CROSS: I take it, if your Honor please, that the order that your Honor made was to be carried out. We have scrupulously carried it out.

THE COURT: I rather thought it had been very scrupulously observed by both sides, and I take it this witness was only in the courtroom long enough for the witness to identify him and see him. If you think you have been prejudiced—

MR. CROSS: Well, if your Honor please, that is not in accord with the record in the case. The record in the case here, the testimony begins on page 2270, and he stood up at page 2279 when he heard the entire testimony on a particular point, I think the record will show. Now, if that is so it does not seem to me proper for him to testify.

MR. MURPHY: Your Honor, I think we are talking about some punctilio; I just don't understand how it would

even affect his credibility, assuming that I told him to sit here in defiance of your Honor's orders. I do not see how that would even disqualify him even then. But there is no proof that he did. He was here merely to be identified by the witness, and it seems to me from what Mr. Cross says, that nine pages of testimony had been given before this man was identified—his own recollection is he was here a half hour—how [4341] that would in any way affect either his competency or credibility I haven't the vaguest idea.

THE COURT: How much testimony did he hear on the point he is to testify on?

MR. CROSS: All of it, if your Honor please. Then he was asked to stand up and the witness Mr. Catlett was asked to identify or look at the two people in the back of the room after he had testified completely on the subject. Now, if being punctilious means objecting to a point that Mr. Murphy himself raised and your Honor ruled on, I am sorry, but I had understood that that meant that a witness who was in the courtroom would be disqualified.

THE COURT: I suppose I should look at the testimony and see just how far it went.

Couldn't you call another witness, Mr. Murphy?

MR. MURPHY: The other witness is going to fall under the same edict. Your Honor, I submit that as a matter of law it has no relevancy.

THE COURT: I agree with you that that is not a legal disqualification.

MR. CROSS: I do not raise any question but what it is within your Honor's discretion; but the rule having been made, and if, as we say, this witness heard the entire testimony of Mr. Catlett sitting in the [4342] courtroom or after the order had on Mr. Murphy's request—

THE COURT: I think I will let him testify. The jury know all the circumstances. If they think his testimony is influenced by anything he has heard they will determine that for themselves.

BY MR. MURPHY:

Q. You said you saw Mr. Catlett on four occasions?

A. Yes.

Q. When was the first time? A. The first was on a Saturday, January 29.

Q. What year? A. 1949.

Q. Where did you see him? A. In front of his house at 2728 P Street NW.

Q. Did you ask him about a typewriter? A. We did ask him about the typewriter at that time, yes, sir.

Q. And what did he say? A. He said he had no recollection of a typewriter ever having been given him by Mr. or Mrs. Hiss.

Q. When did you see him again? A. I saw him for the second time on May 15, which was a Sunday.

Q. Where did you see him then? A. I saw him both at his home and also at the Washington field office of the FBI.

Q. When you saw him at his home what time of the day was that? A. We first went out there about 5:30 [4343] in the afternoon. He said at that time—we told him that we wanted to talk with him—he said that he had not eaten dinner and he would rather we would come back later. We left at that time and came back again about 6:30. That is generally the time, within a few minutes.

We took him then down to the Washington field office. We asked him, of course, whether he would rather we would talk to him at his house or the field office. He said he would just as soon go down to the field office.

Q. Let me interrupt there a minute. This is on Sunday, May 15, 1949? A. Yes.

Q. At that time you knew that the typewriter had been recovered? A. Yes, we did.

Q. Now, when you went to the field office you got there about what time? A. About 7 o'clock.

Q. Did you interview him then with others or alone? A. Mr. Jones and I interviewed him. We were the only two agents there.

Q. And the general subject of the interview was relating to the typewriter, was it? A. Yes, sir, that is correct.

Q. Did you ask him in substance why he had not told you in January about the typewriter? A. Yes, we did.

Q. What did he say? A. He said first that he felt that he owed more loyalty to Mr. and Mrs. Hiss than he did to the FBI. He said that they were good to him and he [4344] felt that he should turn the typewriter over to them or their representatives rather than to the Federal Bureau of Investigation. He said also that he did not have high regard for any law enforcement officers, and he inferred, or he at least—

MR. CROSS: No, just a moment.

Q. Just tell us what he said.

MR. CROSS: I submit, if your Honor please, that the testimony of the witness certainly should be directed to contradicting something that Mr. Catlett was asked. He was not asked the entire conversation, I take it, and there ought to be certain specific questions put. We can't follow this, remembering at this time—

THE COURT: It is for the purpose of contradicting the witness Catlett, isn't it?

MR. MURPHY: Yes, your Honor.

THE COURT: You are confining yourself to that, to those items?

MR. CROSS: And so we can follow, give us a page.

MR. MURPHY: Give you a page of what?

MR. CROSS: Where Mr. Catlett testified that—

Q. Did you discuss money at all?

MR. CROSS: Now, if your Honor please, I do not like to object without a real basis. It seems to me [4345] I have a real basis, and when I say that Mr. Murphy should indicate to us what he is contradicting—he has not laid the foundation here to contradict the witness, and unless he indicates to us so we can test it out—it is not an unreasonable request, and simply because you shake your head does not make it so, Mr. Murphy—

THE COURT: Haven't you any recollection as to Catlett's testimony as to money?

MR. CROSS: If your Honor please, there are 4400 pages, and I can't—

THE COURT: I think I remember it.

Q. Mr. Catlett said that you or the other agent who was interviewing him offered him $200 for the typewriter. My question is, Mr. Connors, one, was the sum of $200 mentioned by anybody?

A. No, sir, it was not.

[4346] Q. Was any money discussed or mentioned by anybody?

A. There were two sums of money mentioned and discussed to some degree. Mike Catlett said that he had received $40 from Donald Hiss to procure the typewriter. He indicated that was probably for expenses in getting the typewriter. Then he also said that after he had found the typewriter he borrowed $10 from Donald Hiss.

Q. And, Mr. Connors, is that the sum total of the entire discussion that was had with regard to money as you remember it? A. The only other sum of money mentioned was some wages which Mike Catlett had not received because he had been questioned on another day by some other Bureau agents, and at that time we paid him for those wages amounting to, I think, about $8.

Q. Now, when did you leave the office that night?

A. At a few minutes before 9 or about 9 o'clock.

Q. And who left? Who was in your company? A. Mr. Jones, Mike Catlett and myself.

Q. And did you go, and how did you go? A. We drove from the office to 2728 P Street where Mr. Catlett lived, and it is my recollection that we went straight out Pennsylvania Avenue to 28th or 27th Street and down 27th to P.

Q. Didn't you go to Roslyn, Virginia, and buy some canned beer? A. No, sir, we did not.

[4347] Q. Was any beer in that car at all that night?

A. No, sir, it was not.

Q. Mr. Catlett said that you all drove over to Roslyn, to Virginia, and bought about eight cans of beer and proceeded to drink it, although he says he drank most of it. Did anything like that happen? A. No, sir.

Q. And what did you do after you dropped him off at the house? A. Mr. Jones and I went back close to the

Justice Building and got something to eat, and then we put the car away and went home.

Q. About what time did you put the car away?

A. About 10 o'clock.

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. May 15th was a Sunday, wasn't it? A. Yes, sir.

Q. Do you know what the regulations are about the sale of beer on Sunday in Washington? A. I have a general knowledge.

Q. What is it? A. It is my recollection that you can buy beer in a glass, that is in a bar on Sunday, after one o'clock. As to the sale of bottled or canned beer, I am not quite sure that there can be any beer sold in Washington on Sunday.

Q. To take off the premises? A. Yes, sir.

Q. How is it over in Virginia at the place Mr. Murphy [4348] mentioned? A. The last time I tried to buy beer in Virginia on Sunday was in 1946—

Q. No, I mean in 1949. A. I can't say for sure. I can only give an impression of those regulations if you wish.

Q. Did you make reports here? Did you make written reports? A. Yes, sir.

Q. Produce them. Will you produce them?

MR. MURPHY: Now, your Honor, there is no open sesame about producing reports. I submit, your Honor, that if Mr. Cross proposes to contradict the witness or impeach him by his own report, then Mr. Cross must show that to the jury and then if your Honor calls upon the Government to produce them so you can examine them to see whether it does impeach the witness, all right, but to merely say "Produce this" is no way to do it at all.

THE COURT: Have you any real objection?

MR. MURPHY: Do I have a real objection?

THE COURT: Yes.

MR. MURPHY: Yes, your Honor. I think it is an imposition on the Government merely to stand here and get

reports as Mr. Cross asks. There is no basis in law that enables him to call for confidential reports of that nature.

MR. CROSS: I did not call this witness, if your [4349] Honor please, and it seems to me if he made a written report I have a right to see what his report was.

MR. MURPHY: Under no cases, your Honor.

THE COURT: I think you might.

MR. CROSS: Now may we have the reports? Will you produce them?

MR. MURPHY: Does your Honor say we have to produce the reports made by this man?

THE COURT: You have to produce them, yes.

MR. MURPHY: You better tell me what reports they are.

THE COURT: Did you make a written report?

THE WITNESS: Yes, your Honor.

THE COURT: Do you know where it is?

THE WITNESS: I don't know whether a copy is in New York.

MR. MURPHY: If you tell us the date, we can find it perhaps.

MR. CROSS: January 1949.

THE COURT: Have you a copy?

THE WITNESS: No, your Honor. You know under Rule 3229 we may not produce reports in court.

MR. CROSS: January 29 and May 15, 1949.

MR. MURPHY: I do not have those reports. If we have them I don't know about them. Perhaps we can get [4350] them.

THE COURT: You have not any reports yourself?

THE WITNESS: No. The question appears to me somewhat ambiguous as, do I have a report of what I did in connection with Mike Catlett?

MR. CROSS: Let us not have any ambiguity. You made a written report after you saw Mike Catlett on January 29, 1949.

THE WITNESS: No. That is what I mean. I did not make a report about that. It was made by another agent.

Q. Did you make the one on May 15, 1949? A. I, with another agent, made a report.

Q. And you turned that in to your superiors?

A. Yes, sir.

MR. CROSS: That is what we want.

THE COURT: So the Court's ruling may be clear, I referred to any report made by this witness in connection with his interview on this evening that he has just described.

MR. CROSS: That is it, May 15th.

THE COURT: I understand that the Government will look for that report and if available it will be produced, is that right, Mr. Murphy?

MR. MURPHY: Yes, your Honor. We will look for it.

[4351] MR. CROSS: And I will pass that until we get it but I want this witness here when I get the Government's report.

THE COURT: Are there any other questions?

MR. CROSS: No, your Honor, until I see the report.

MR. MURPHY: Can we understand each other now: you have directed me to produce the reports that this agent made with regard to two days and do I understand your Honor's ruling, no matter what is in that report you are directing us to turn it over to Mr. Cross?

THE COURT: You are directed to produce it. I will look it over. That is relating to this evening interview. Any further questions?

MR. CROSS: No, your Honor, except I want the witness available if I should want to ask any further questions if and when I see the report.

THE COURT: That seems to be all, sir.

(Witness excused.)

COURTLAND J. JONES, called as a witness on behalf of the Government in rebuttal, being duly sworn, testified as follows:

MR. CROSS: I assume your Honor will make the same ruling with reference to this witness as the preceding witness. I simply object so as to put it on the record.

[4352] THE COURT: Mr. Cross, I find it very undesirable to make rulings unless I have the objection clearly stated.

Direct Examination by Mr. Murphy:

Q. Mr. Jones, you are attached to the FBI as a special agent, are you not? A. I am.

Q. And in 1949 had you been assigned to the Washington Field Office? A. Yes, sir.

Q. And were you in this courtroom at all since the beginning of the trial on November 17th? A. Yes, sir.

Q. Do you remember what day you were here? A. It was about two weeks ago, sir. I don't remember the date.

Q. Do you remember who was testifying? A. Yes.

Q. Who was that? A. Raymond Sylvester Catlett.

Q. And were you sitting in the back of the room with another agent? A. I was.

Q. And that was Mr. Connors? A. Yes.

Q. How long do you estimate you were sitting there?

A. About a half hour.

Q. Let us first talk about Perry Catlett. Were you in the room when Perry Catlett was testifying? A. No, sir.

Q. Perry is the older of the Catlett boys?

A. Yes.

Q. Oldest, rather? A. Yes.

Q. Now, how many times did you see Mr. Perry Catlett?

[4353] A. Two times.

MR. CROSS: I will wait until the next question. It seems to me it has got to the point I should raise the objection to the witness testifying. I take it he will say he was here the same time the other witness was?

THE COURT: I think so. I think he was with the last witness.

MR. CROSS: I simply want to make my objection.

THE COURT: Yes. I would make the same ruling.

Q. So we will understand, Mr. Jones, you were not present when Perry Catlett testified? A. No, sir.

Q. And that was the only day that you were in the courtroom? A. Yes, sir.

Q. And you were there at my direction? A. Yes, sir.

Q. Now, did Mr. Perry Catlett sign a statement for you on a piece of yellow paper? A. He did.

Q. Do you remember where that was done? Was that done at your office or his home or his place of business or where?

A. It was done at his home.

Q. And was it done on the day that is written there?

A. Yes, sir.

Q. This is dated May 28, 1949, Washington, D. C., Government's Exhibit 58, and there was another agent with you at the time? A. No, sir.

[4354] Q. And did he read the statement over at the time he signed it? A. He did.

Q. Did he refuse to sign it? A. No, sir.

Q. Did you have a conversation with him just prior to the time that he signed it? A. I did.

Q. How long were you there at his house altogether?

A. Well, about half an hour, 40 minutes.

Q. Did you discuss with him when it was that he received the Woodstock typewriter? A. I did.

MR. CROSS: Now, if your Honor please, I submit that it ought to be the conversation, not whether he discussed with him. If he is going to ask, it ought to be the conversation.

Q. Tell us the conversation, please, that you had with Mr. Catlett, if you had one, concerning the time when he received the Woodstock typewriter, according to his recollection. A. I asked him when he received a Woodstock typewriter from Mr. and Mrs. Alger Hiss, and he said he was not sure. He associated it with a move that Mr. and Mrs. Hiss made from 30th Street to Volta Place. And I asked him did he get it before the move, during the move, or "Did you get it after the move?" And he said he didn't know, that he could have gotten it before they actually,

physically moved, or during the move, or he could have easily gotten it after the move.

[4355] Q. And as a result of that did you write the following paragraph in this statement, Government's Exhibit 58, "During the period that Alger Hiss moved from 30th Street to 3415 Volta Place, Northwest, Washington, D. C., they gave me a Woodstock typewriter. I can't remember whether they gave it to me before they moved or after they had moved to Volta Place. They could have lived on Volta Place for several months before they gave it to me."?

A. Yes, sir.

Q. Now, did you have a discussion with him as to whether or not he took the typewriter to any particular place to have it repaired or not? A. I did.

Q. Did you have a discussion with him about that at any prior time? A. I did.

Q. This is dated May 28, 1949. When did you discuss with Perry Catlett whether or not he ever took it to any place to have it repaired? A. That was on Friday, May 13th. At that time he told me and Special Agent John Howard that Mr. and Mrs. Hiss had given him the Woodstock typewriter. We asked him if he had ever had it repaired, and he said yes, that he had taken it to a shop located at the corner of Connecticut and K Street, a drugstore was on the corner, and that he was told at that time that it couldn't be repaired.

Q. And, then, did you conduct some investigation [4356] after that information was given to you? A. Yes, sir. I asked an agent to verify the fact that there had been a repair shop—

MR. CROSS: Just a moment.

Q. Don't tell us what you did. But some investigation was conducted— A. Yes, sir.

Q. —based upon that information. And, then, did you go out to see Perry Catlett at his home on May 28th?

A. Yes, sir.

Q. And then did you discuss again with him the fact that he took it some place to have it repaired?

A. Yes, sir.

Q. What did he say to that? Or tell us what you said and he said. A. I asked him if he recalled taking it to the northwest corner of K and Connecticut, and he said that he took it to the corner where there was a drugstore. And I asked him if he took it in the front of the building or to the side of the building, or upstairs or downstairs. He said he wasn't sure, but that it was his recollection that he took it on the ground floor, but he was certain that it was the northwest corner of K and Connecticut.

Q. Is K Street a pretty busy street in Washington?

A. Yes, sir, a thoroughfare.

Q. A bus runs past that corner? A. Yes, sir.

Q. So, then did you prepare and write out the second [4357] paragraph, "shortly after I got the typewriter I took it to a repair shop located at the northwest corner of K and Connecticut. They told me it couldn't be fixed. I can't remember exactly when I took the typewriter to be fixed. I think it was in the warm weather. I could have taken it to the shop about a week after I got it, or it may have been a month or two. I would say it wasn't more than three or four months."?

A. We discussed all of the facts in that statement first and then I wrote the statement, asking him if it were true, and he said that it was.

Q. And then did he make this statement in his own handwriting:— A. He did.

Q. —"I have read this statement and it is to the best I can remember"? A. Yes, sir.

Q. And then he signed it? A. He did.

Q. All right. Now, he did not refuse to sign it?

A. Oh no, sir.

Q. Well, did you ever ask him to sign it before that particular day? A. No, sir.

Q. Now, you had interviewed Mike Catlett, or Raymond Sylvester Catlett, too, had you not? A. Yes, sir.

Q. When did you first see him? A. Friday, May 13, 1949.

Q. And where did you see him? A. At the FBI office in Washington, D. C.

[4358] Q. And during that—did you have an interview there with him? A. I did.

Q. Who was present? A. Special Agent John Howard, Miss Marguerite Hansen, a stenographer, and I. And during the last portion of the interview Special Agent Kenneth T. Delavigne was also present.

Q. Was Connors present? A. No, sir.

Q. During that interview was any mention made of money at all? A. Either during that interview or one subsequently he said that he had received $40 from Mr. Donald Hiss.

Q. Well, let us stick to the May 13th interview as distinguished—the next time you saw him was May 15th, was it? A. Yes, sir.

Q. In other words, you saw him on a Friday for the first time and then Sunday the second time? A. Yes, sir.

Q. On May 13th, when you saw him, did you know that the typewriter at that time had been recovered? A. I had been told by his mother that the—

Q. The day before or that day? A. —that the attorneys had located the machine. She told me that same day, on May 13th.

Q. Well, how long an interview did you have on Friday, May 13th with Raymond Catlett? A. It began about 5 and it ended at 6:45.

[4359] Q. And did you ask him to sign a statement that night?

A. Yes, sir.

Q. And did he? A. No, sir.

Q. Well, did you discuss with him whether or not he had told the FBI agents in January that he didn't know anything about the typewriter? A. I did.

Q. And did he say why he didn't tell them in January?

A. He did.

Q. What did he say? A. He said that—well, he said that he didn't like the way the agents acted, that they said something about Mr. Hiss being a Russian lover or a Communist, or something like that.

Q. And did you ask him to sign the statement to that effect? A. I did.

Q. And would he? A. No, sir.

Q. Then you say you saw him again on May 15th? A. 15th.

Q. And where did you see him then? A. I initially saw him at his home and asked him to go down to the FBI office with me. He hadn't had his dinner, so I asked him if I could come back, and he said yes.

I went back after he had had his meal, and Special Agent Donald B. Connors, Jr. and I drove him down to the FBI office, where he was interviewed.

Q. Now, how long did you interview him? A. About two [4360] hours I would say.

Q. During that interview was anything said about money? A. Well, he said that due to the interview on Friday the 13th he had been unable to work; in other words, he said that he reported to work but he was not allowed to work, and he asked me for a day's wage as the result of my interview. I gave him some money.

Q. Do you remember how much you gave him? A. I think it was $8.50 because I had asked him what his annual wage was and he told me, and I figured it up as being around $6, deducting the deductions that Federal workers get, but he said that it should be around $8.50, so I gave him that amount, and also gave the same amount to his brother, Bucky.

Q. Well, did you get a receipt? A. Yes, sir.

Q. What else was said about money? A. Well, he mentioned that after he was interviewed by the FBI for the first time that he approached Mr. Donald Hiss, told him that the FBI was looking for the Woodstock typewriter and that he had received it from Mr. Alger Hiss. He said, further, that he believed that he could locate the Woodstock machine if he had some money to help him. And he said that Mr. Donald Hiss either gave him $40 or else agreed to give him $40 to cover his expenses. And he also said that he borrowed $10 from Mr. Donald Hiss, and it is my recollection that that was subsequent to this initial [4361] interview that he had with Mr. Donald Hiss.

Q. Well, specifically did you offer $200 at all?

A. I did not.

Q. Did anybody while you were present offer him $200?

A. No, sir.

Q. Was the sum $200 mentioned? A. No, sir.

Q. Now, what happened when you left the office? Where did you go? A. We took him home.

Q. You took him home? A. Yes, sir.

Q. In a car? A. Yes, sir.

Q. Who was with you? A. Special Agent Donald B. Connors, Jr.

Q. Do you remember how you got to—where did he live, by the way? A. He lived at 2728 P Street, Northwest.

Q. Did you all three drive up there in the car?

A. Yes, sir.

Q. And how long a ride is that? A. About 15 minutes.

Q. And did you stop on the way? A. No, sir.

Q. Did you, specifically, go to Roslyn, Virginia?

A. No, sir.

Q. Did you buy any beer in Roslyn, Virginia?

A. No, sir.

Q. Mr. Catlett said that eight cans of beer were bought and drunk that night. Did you have any beer at all in the car? A. No, sir.

[4362] Q. And what did you do after you left him home?

A. We went downtown and had our dinner.

Q. And then what? A. Then went back to the FBI office and then went home.

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. Mr. Jones, when did you first start working on the Hiss case? A. On or about December 10, 1948.

Q. How many days thereafter did you work on it?

A. I worked it consistently until about March 15th and—

Q. Every day? A. Well, I wouldn't say that I worked every day, Mr. Cross, because some Sundays I did not work. I usually worked on Saturdays and Sundays but occasionally I didn't work on Sunday.

Q. Well, what I am asking, Mr. Jones, is, did you work solely on the Hiss matter from December 10 until some time in March 1949? Did you have any other assignments during that period? A. I believe I had one other assignment for a short duration, perhaps a day or so.

Q. But except for that, your entire time was spent on the Hiss matter? A. That is my recollection.

Q. And then after that when next did you start?

A. On May 13, 1949.

Q. And how many days did you work on the matter there- [4363] after? A. I would estimate it to be about two weeks.

Q. Continuously? A. No, sir.

Q. Well, when did you stop? When was the last work you did on it? A. About two weeks after May 13.

Q. Have you done anything on it since? A. I don't believe so—oh yes, sir. I interviewed Perry on May 28.

Q. Well, since the first trial have you done anything on it? A. Oh, no, sir.

Q. You got pretty familiar with the facts of the case, a part of the facts about the case as you worked from December 10 until some time in March of 1949, did you not?

A. I was familiar with the facts concerning the Woodstock typewriter.

Q. How many other agents in Washington were working on the Hiss case before the first trial? A. We had about 35 looking for the Woodstock typewriter.

Q. Now, they were not employed solely for that, were they? Weren't they doing other work, other investigating?

A. For a period of several weeks they were doing that alone.

Q. Well, after that did you keep them on? A. Sir?

Q. After that did they continue doing other things?

A. They would work on this case and they would also work on other cases.

Q. Do you know what other offices had agents working [4364] interviewing people all over the country? A. I know generally that there were a number of offices working on it.

Q. All over the country? A. Yes, sir.

Q. Interviewing witnesses in various parts of the country? A. They were interviewing people who might have knowledge of the Woodstock typewriter.

Q. Now, Mr. Jones, on May 13 when you were down interviewing Mr. Catlett, was Mr. Murphy in Washington at the time, that day? A. I don't know.

Q. Do you know who it was who asked you to go out and interview the Perry boy on that day? A. My superior asked me to interview Perry.

Q. Who was that? A. Mr. Delavigne, Kenneth T. Delavigne.

Q. On May 28 you, of course, knew the date of the move of the Hisses from 30th Street to Volta Place, didn't you?

A. Surely. I knew the approximate date.

Q. And what date did you understand that was?

A. It was around December 31.

Q. What year? A. 1937.

Q. 1937? A. Yes.

Q. And you also knew the dates of certain documents, did you not, that they were dated sometime in the first three or four months of 1938? A. Are you referring to the documents—

[4365] Q. What we referred to as the Baltimore documents?

A. Yes.

Q. And you knew that some of those were dated as late as April 1938, did you not? A. I thought that March was the latest date. At least, that is my recollection.

Q. I think one or two were in April. But, at any rate, you know that the move from 30th Street to Volta Place was before that, didn't you? A. Yes, sir.

Q. Now, in chronology, when you saw Perry or Pat Catlett on May 28 he told you that, as he remembered it, they got the Woodstock on some move, and he thought it

was when they moved from 30th Street to Volta Place, didn't he?

A. He was definite that they had gotten it on that move.

Q. And he said that he thought that it was on the move from 30th Street? A. In the period of the move.

Q. Yes. And then it was you who asked him, "Well now, it could have been after they moved," wasn't it?

A. No, sir, I did not ask him that.

Q. What did you ask him? A. I asked him, "Did you receive it before they moved, during the move, or did you receive it after the move?"

He said, "Mr. Jones, I don't know."

Q. Now let us see. The statement says: "During the period that Alger Hiss moved from 30th Street to 3415 Volta Place, Washington, they gave me a Woodstock typewriter. [4366] Period"? A. Yes, sir.

Q. That is what he told you first, wasn't it?

A. During the move.

Q. "During the period that Alger Hiss moved from 30th Street to 3415 Volta Place, Northwest, Washington, D.C., they gave me a Woodstock typewriter."

That is what he told you first, wasn't it?

A. That is what he said.

Q. And then you asked him whether it might have been after that move? A. Mr. Cross, I tried to—

Q. No, just answer my question. A. No, sir.

Q. Did you then ask him after he had stated that, "During the period that Alger Hiss moved from 30th Street to 3415 Volta Place, Washington, D.C., they gave me a Woodstock typewriter"—did you ask him any further question? Now, please just follow my question and answer.

A. I never asked him the specific single—

Q. No. My question was— A. The answer is no to that, sir. I asked him, "When did you receive it?"

He said,"I don't know. I associate it in the move. It was either before, during or after."

[4367] Q. Now let me read you again your state-

ment. By the way, that is your handwriting, isn't it? A. It is, yes, sir.

Q. The very first statement is: "During the period that Alger Hiss moved from 30th Street to 3415 Volta Place, Northwest, they gave me a Woodstock typewriter." Did Perry Catlett tell you that, Mr. Jones? A. Yes, he told me that and when he said "during that period" he meant—

Q. No. You are trying to explain something I have not asked you. A. All right, sir.

Q. Did Mr. Catlett tell you on May 28th this: "During the period that Alger Hiss moved from 30th Street to 3415 Volta Place, Northwest, Washington, D.C., they gave me a Woodstock typewriter"? A. He did.

Q. Then you asked him whether he could remember whether they gave it before they moved or after they had moved, didn't you? A. Yes, sir. I asked him a specific—

Q. No, please. A. If he remembered the date.

Q. No, please. Did you ask him after he had said that whether he could remember whether they gave it to him before they moved or after they had moved to Volta Place?

A. I asked him that.

Q. And then did you say, could they have lived at Volta Place for several months before they gave it to him? [4368] Did you ask him that? A. Yes, sir. And he answered "Yes."

Q. Now you see I did not ask you that? A. I am sorry.

Q. I will ask again: Did you ask him if it could have been after they had lived at Volta Place for several months before they gave it to him? A. I did.

Q. And that was after he had told you that they had given it to him when they moved from 30th Street to 3415 Volta Place? A. Mr. Cross, that is a summary of what I—

Q. No. Will you please answer my question? A. I cannot answer yes or no, Mr. Cross.

Q. I will pass on if you can't. Please don't volunteer. Were these questions asked after he told you what I asked

before, "During the period when they were moving from 30th Street to Volta Place Alger Hiss gave me the Woodstock typewriter"? Can you answer yes or no? A. That is an elaboration of it, Mr. Cross.

Q. Can't you answer my question? Did you ask this question I have just read after the Catlett boy said what I first read? A. I cannot recall the order in which I asked him these questions.

Q. All right. We will pass on then. Now, you had found out that there was a Woodstock typewriter place at 1528 K Street as early as May 1, 1938, hadn't you?

[4369] A. I did not know that when I obtained that signed statement.

Q. But you have since found that that is true?

A. Yes, sir.

Q. Now, when you saw him on May 13th did you make a report? A. When I saw whom, sir?

Q. Mr. Catlett on May 13th. A. I did.

Q. Who did you give it to? Your superior?

A. Yes, sir.

Q. Did you prepare that yourself? A. I don't remember.

Q. Well, it was a written report, wasn't it?

A. Yes, sir.

Q. In longhand? A. No, sir.

Q. Was it typed? A. Dictated report.

Q. Do you sign it? A. No, sir.

Q. How do you indicate that it is yours? A. My name appears.

Q. How about May 15th? Did you dictate a memorandum of that? A. I dictated a report.

Q. How about May 28th? A. Yes, sir.

Q. When you saw Perry M. Catlett did you dictate a report on that? A. I either dictated one myself or else I dictated an insert on someone else's report.

Q. Which did you do? A. I don't know. I can't remember.

[4370] MR. CROSS: I would like those reports so far as Mr. Jones dictated them.

MR. MURPHY: Your Honor, I suppose this is subject to the same ruling as before.

THE COURT: Yes, Mr. Murphy.

MR. MURPHY: I have the report of the other man now which I give to your Honor, and I take it it is for the purpose of your Honor ascertaining whether or not—

THE COURT: Any inconsistencies.

MR. MURPHY: Yes. I have indicated in red where the end of Mr. Connors' report is and I do not have this gentleman's yet. What am I required to do with regard to Mr. Jones?

THE COURT: I suppose the same thing, Mr. Murphy.

BY MR. CROSS:

Q. Mr. Jones, you testified at the first trial, didn't you? A. Yes.

Q. Were these questions asked you and did you give these answers:

"Q. Pardon me, Mr. Jones. I don't mean to interrupt, but did you have that clearly in your mind? A. No, sir.

"Q. Did you have it as clearly in your mind as it is clearly stated here,"

and the reference was to this statement "During the period that Alger Hiss moved from 30th Street to 3415 Volta Place, [4371] Northwest, Washington, D.C., they gave me a Woodstock typewriter." This reference was to that, and then:

"Q. Did you have it as clearly in your mind as it is clearly stated here? A. Mr. Stryker, he said innumerable times, 'All I know is that I got it during the move. It was before or could have been after.' He did not know the actual time. He could not say. I could not say he told me that he received it on the very day that Mr. and Mrs. Hiss moved from 30th Street to Volta Place."

Were you asked those questions and did you give those answers?

A. If that is your record, sir, I did.

Q. I have given you the page and I just call it to the jury's attention.

MR. CROSS: That is all, subject to having the chance to ask any questions if there is something in the statements.

Redirect Examination by Mr. Murphy:

Q. Mr. Jones, will you tell the jury, please, how a statement is prepared; how, specifically, this statement was prepared? For instance, do you write a sentence and then ask the witness questions or do you write it after asking all of the questions?

A. That statement is a narrative statement. I wrote it at the conclusion of the interview. I asked him a number [4372] of questions. It is a summary of all the questions I have asked him that were pertinent to this issue. That is what it is—a summary.

Q. In other words, you did not ask him or write down each sentence as it was said? A. No, sir.

Q. You interviewed him for a half an hour or so and then wrote down what was the summary of the conversation?

A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. Now, the reason that you went there on May 28th was that you had learned in the meantime that this typewriter outfit did not have that place until September, 1938, isn't that the reason you went back? A. Yes, sir.

Q. And that is the reason you wanted to get him in writing? A. Yes, sir.

MR. MURPHY: All right.

Your Honor, I suppose we will be able to find the other two statements if we have them here in New York and I will hold this witness until your Honor reads both statements. Can we have a recess and I will check on the two statements and then perhaps we will know what the ruling is on these two gentlemen?

THE COURT: We will have a recess. I think it would be a good idea if counsel came in to chambers and look over these things together.

[4373] (Short recess.)

(The following occurred in chambers):

THE COURT: I have examined the statements of the FBI agents Connors and Jones and I find no inconsistencies between the testimony given while on the witness stand before the jury and in their written statements.

Mr. Cross refers to the fact that when Agent Connors was on the witness stand he testified that when he interviewed the Catlett boy, amongst other things Catlett said that he had little or no regard for law enforcement agents. I find no similar statement in the report of the interview that Mr. Connors made.

(The following occurred in the courtroom in the presence of the jury):

THE COURT: Mr. Reporter, will you read to the jury what I dictated to you at the end of the conference with counsel in chambers.

(Statement of Court read.)

MR. MURPHY: Your Honor, that brings us to 4:30.

THE COURT: That means we adjourn until tomorrow morning at half-past ten.

(Adjourned to January 17, 1950, at 10:30 a.m.)

[4374] New York, January 17, 1950; 10:30 o'clock a.m.

Trial resumed.

STANLEY RUSSELL, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mr. Russell, by whom are you employed?

A. By a typewriter dealer, Adam Kunze.

Q. And last year did you rent a typewriter to the law firm of Debevoise, Plimpton & McLean? A. That is right.

Q. What kind of a typewriter did you rent?

A. Woodstock typewriter.

Q. A Woodstock what? A. Woodstock typewriter.

Q. Like that one (indicating exhibit)? A. Yes.

Q. Who made the arrangements with you on behalf of the firm? A. Mr. Rosenwald.

Q. And how long did you rent the typewriter for and how much? A. How long a period?

Q. Yes. A. Oh, about three or four months.

Q. And how much a month was it? A. Well, the first [4375] month was $10 I believe, and succeeding months was $5.

Q. And after that period of time it was returned? A. That is right.

Q. Do you know when it was—what months last year? A. I think I sent it down in February of 1949 and picked it up about May; somewhere in there.

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. You got it back in the same condition you rented it, didn't you? A. What is it?

Q. You got the typewriter back in the same condition you rented it, didn't you? A. Well, that is hard to say. It was a typewriter when it went down and it was a typewriter when it came back.

Q. Were you visited by the FBI at some time? A. I think we were.

Q. When, first? A. Oh, I could not say offhand.

Q. It was a matter of days after this typewriter was rented, wasn't it? A. No, I think it was before.

Q. And after too? A. No, I don't think so.

Q. You are sure you were not interviewed after? A. No.

Q. But you were interviewed before? A. That is right.

MR. CROSS: That is all.

[4376] *Redirect Examination by Mr. Murphy:*

Q. Are you quite right that you were interviewed before you rented the typewriter to the firm? A. I am not quite sure.

Q. Not sure whether it was before or after? A. That is right. That is some time ago.

Q. Well, it is not more than a year ago, is it? A. About a year.

Q. Some time last year? A. As I say I sent it down in February and I don't know quite sure whether—

Q. But the jury wants to know whether the FBI came to you or your office before you rented it to this law firm or after you rented it if you are able to tell us.

A. I am not able to tell.

MR. MURPHY: All right, thank you.

(Witness excused.)

AUGUST CLAESSENS, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mr. Claessens, what is your position or title?

A. At the present time?

Q. Yes. A. Executive secretary of the Social Democratic Federation.

Q. And does that organization have an office at [4377] 7 East 15th Street? A. Yes, sir.

Q. And prior to your present position were you ever associated in any way with the Socialist Party?

A. For 30 years.

Q. Well, to go back to 1932, if you will, tell us what your position was at that time. A. I believe I was the city organizer.

Q. Now will you tell the Court and jury, Mr. Claessens, what the practice was in the Socialist Party at that time about people who wanted to join the Party? Did they make applications, written applications?

A. They filled out an application blank.

Q. And after that application was filled out what was the practice of the Party, the office practice?

A. It would come before the executive committee and passed upon unless there was objection, following which a membership card would be made out and sent to the branch, the neighborhood branch, and a file card would be made out in the office.

Q. Have you examined the records of the Socialist Party recently in order to ascertain whether certain applications for membership remained as part of your records? A. Right.

Q. And have you been able to find those applications? A. Not the applications for 1932 but I found the file [4378] cards made from the applications.

Q. In other words, part of the office practice was to make a file card from the application?

A. Correct.

Q. Now I show you a card, Mr. Claessens, and ask you whether that is from your files and a card that you referred to as a file card? I am showing you Government's Exhibit 63 for identification. A. Yes, sir.

Q. That is? A. Right.

Q. That indicates that you know that that is from your files, from the Socialist Party files, at 7 East 15th Street, and it is the file card that you referred to which was made from the application? A. Correct.

Q. And you have been unable to find the application or all the applications for 1932? A. My applications on hand now only go back to 1935.

MR. MURPHY: I offer that card in evidence.

MR. CROSS: Object to it as being immaterial and irrelevant, if your Honor please.

THE COURT: It is offered for the purpose of impeaching a witness?

MR. MURPHY: Yes, your Honor. You remember when Mrs. Hiss testified she said that she was not a member of the Socialist Party and it is offered for the purpose of impeaching her testimony.

[4378a] MR. CROSS: This is nothing that Mrs. Hiss has ever seen or signed and it has no connection so far with her.

THE COURT: It is a record made in the ordinary course of your business or your association?

THE WITNESS: That is correct, sir.

THE COURT: Received.

(Government's Exhibit 63 for identification received in evidence.)

[4379] MR. MURPHY: Ladies and gentlemen, this little blue card, now Government's Exhibit 63, has: "Name: Priscilla Hiss. Branch: Morningside. Address: 180 Claremont Avenue, City," with an ink line through it. "Admitted March 23, 1930." And the last part you can't see. "Occupation: Research. Age: 28." And nothing on the back.

BY MR. MURPHY:

Q. Was there a branch of the Party known as Morningside? A. Yes, sir.

MR. CROSS: May I see it, Mr. Murphy?

(Mr. Murphy hands Government's Exhibit 63 to Mr. Cross.)

MR. MURPHY: That is all.

Cross Examination by Mr. Cross:

Q. Mr. Claessens, when did you cease to be connected with the Socialist Party? A. 1936.

Q. 1936. Do you know what this address stricken out means? A. Yes.

Q. What does that mean? A. The Post Office couldn't deliver mail after a certain time. Removed.

Q. And after a certain time no literature was sent or anything? A. No.

Q. And that means it was just a dead card?

A. Right.

[4380] MR. CROSS: That is all.

MR. MURPHY: Thank you very much, sir.

(Witness excused.)

FRANCES ONEIDA BOOTH, called as a witness on behalf of the Government in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mrs. Booth, do you know a man by the name of Catlett, Mike Catlett? A. Yes.

Q. You will have to keep your voice up a little bit. You have never been in court before, have you? A. No.

Q. How long have you known Mike Catlett, about?

A. Oh, about 20—15 or 20 years.

Q. Do you live in Washington, D.C.? A. Yes, I do.

Q. Did you see Mike Catlett one evening at your house in March of last year? A. Yes, I did.

Q. About what time of night was it? A. Between 10:30 and 11 o'clock.

MR. CROSS: I can't hear her.

Q. Yes. Will you try to speak up a little bit? I think if you sit back further in the chair you will be more comfortable. A. Between 10:30 and 11 o'clock.

Q. What did he say to you at the time he was at the door of your house? And who was he with, by the way?

A. He was with two fellows, and he asked me to let him [4381] in, he wanted to talk to me because he was with the FBI—

MR. CROSS: I can't hear her.

THE COURT: Would you speak louder?

Q. What did Mike Catlett say? He said he wanted to talk with you? A. Yes, he did.

Q. And what else did he say? A. He had two fellows from the FBI with him, and he wanted to talk to me, and asked me would I let him in.

Q. What did he say he was doing? A. Oh. He said he was working with the FBI.

Q. And then did you let him in? A. Yes, I did.

Q. And they discussed whether you remembered where a certain typewriter was, is that right?

MR. CROSS: Just let her testify what he said, please.

MR. MURPHY: All right.

Q. Tell us what he said. A. He asked me did I remember the typewriter that was at the house, and I told him yes, I did. And the fellows asked me did I have an idea where it was. I told them no, I didn't. And they asked me had I ever used the typewriter, and I told them no.

They asked me did I know anyone that ever used the typewriter. I said the only one I remember was his sister-

in-law Ursula. And he asked me could I give him any more information on the typewriter, and I told him no, [4382] I couldn't.

So, finally, Mike left and they left, and he came back and said not to say anything to anybody because he wanted to keep it a secret.

Q. These men that were with him, were they colored or white? A. They were white.

Q. Do you remember their names? A. No, I don't.

Q. Would you recognize them again, do you think?

A. I don't think so.

MR. MURPHY: All right. You may examine.

Cross Examination by Mr. Cross:

Q. Did you have the typewriter at some time? A. No, I didn't.

Q. Did you ever see it? A. Yes, I did.

Q. Where? A. At 2728 P Street.

Q. When was that? A. After I moved back over there in '39.

Q. After you moved where? A. Over there in '39.

Q. When was it you saw it? A. When I moved over in '39, the last part of the summer.

Q. I mean—

MR. MURPHY: What? The last part of—

THE REPORTER: "the last part of the summer."

Q. Of what year? A. '39. 1939.

Q. What was the occasion when you saw it? A. It was [4383] downstairs.

Q. I mean, how did you happen to be over there?

A. Well, I was rooming there.

Q. Rooming at the Catletts? A. Yes.

Q. Where were you first rooming? When did you first room at the Catletts? A. The first time I stayed with them was in 1936, up on 32 Street.

Q. And then again? A. In '39.

Q. In '39. How long were you there? A. On P Street?

Q. Yes. A. From 1939 until 1941.

Q. Who was living there at the time? A. Everybody?

Q. Yes. A. Mrs. Clidi, and Mike and Pat, Bucky, and Miss Alice and myself and my husband and little girl, and my brother George, and a fellow named Jack Botts and his wife.

Q. How many rooms did they have? A. Six rooms and a hall room.

Q. And how many people were there? A. Wait a minute. Four in Mrs. Clidi's family, three in mine, and my brother, and two in the hall room, and Miss Alice—I don't know how many it was.

Q. Now, did they still have a den when you were there?

A. No, they didn't have a den then.

Q. What was that room downstairs, the basement, used for?

A. They had a living room and a kitchen downstairs in [4383a] the basement.

Q. When Mr. Catlett came in did he introduce these people? A. Yes, he did.

[4384] Q. How did he introduce them? A. He told me their names and said he was working for the FBI, they were FBI agents, and he was working with them, and they were trying to find the typewriter and wanted to know if I knew where the typewriter was.

Q. And they were close enough so they could hear?

A. Sitting right in the same room with me.

Q. I thought you said that before you— A. He introduced them and they came inside.

Q. Where were they standing? A. Right near the kitchen window.

Q. Right near so they could hear what was said? A. Yes. They were a little behind.

Q. Then after they came in your living room Mike said again that he was working for the FBI? A. Yes.

Q. And these two men were FBI men? A. Yes.

Q. If I asked to have someone stand up, do you think you could identify the person? A. If they were the two men I couldn't.

Q. Beg your pardon? A. If they were the two fellows I couldn't.

Q. You couldn't? All you know is that they were white? A. Surely.

Q. And Mr. Catlett said they were FBI men? A. Yes.

[4385] Q. He introduced you to them by name, didn't he? A. Yes, he did.

Q. Do you remember either one's name? A. No, I didn't.

Q. Or what either one looked like? A. No. They came to my house a couple of weeks after my husband died and I didn't pay hardly any attention.

Q. You were quite upset? A. Yes, I was.

Q. I just want to make sure that you can't tell his Honor and the jury either any name that was used, or that you could not describe any of the people. A. No, I couldn't.

Q. Where are you living now? A. 1236 Hopkins Place, SE.

Q. In Washington? A. Yes.

Q. How long did they stay? A. They stayed about 20 minutes.

Q. There isn't any question but what Mr. Catlett introduced these people by name, is there?

A. No, there is not.

Q. And they stayed all the time that he was there? A. Yes, they did.

Q. And in the same room? A. Yes.

Q. And if their hearing was good they could have heard everything he said? A. Yes.

[4386] Q. Is Mr. McLean who is sitting here at this table one of the gentlemen (indicating)? A. I don't know.

MR. CROSS: That is all.

MR. MURPHY: That is all. Thank you very much, Mrs. Booth.

(Witness excused.)

HENRY NORMAN GRIEB, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. You live in Chestertown, Mr. Grieb? A. That is correct.

Q. And back in the '30s were you a counselor down in Mr. Kellogg Smith's camp in Chestertown? A. That is right.

Q. Were you a counsellor there in the year 1937? A. Yes, sir.

Q. And do you remember a boy there by the name of Timmy Hobson? A. Yes, sir.

Q. As a matter of fact, you testified at the last trial on behalf of the defense, did you not? A. That is right.

Q. Now, when this boy came to camp in the early part of the summer do you remember his physical condition? A. I think he had a broken leg, yes.

[4387] Q. Did there come a time when he got along without crutches, if he had crutches when he started?

A. Yes, sir.

Q. Now do you remember Mr. and Mrs. Hiss down at the camp or in the city of Chestertown? A. Yes.

Q. And during the summer were Mr. and Mrs. Hiss out at the camp to see the boy? A. Yes, sir.

Q. Frequently or infrequently? A. Frequently.

Q. Well now, did there come a time when Mr. and Mrs. Hiss did not come out for a couple of days? A. Yes, sir.

Q. Tell us about that, Mr. Grieb. A. Well, as nearly as I can remember, right after Mr. and Mrs. Hiss came to Chestertown, about two or three days, they came down to camp and told Timmy—Mr. Hiss told Timmy that he had to go to Washington on business and that —

THE COURT: A little louder. Would you talk to the lady in the back corner so she may hear.

THE WITNESS: Do you want me to repeat what I said?

THE COURT: (To juror) Could you hear?

THE JUROR: Yes.

A. (Continuing) And as far as I know he wasn't there for a couple of days, and I don't know where Mrs. Hiss was.

Q. What did Timmy do when his parents weren't there? A. Well, he wasn't in normal camp activities because [4388] he couldn't participate in them, but he was included in the camp routine.

Q. Well, did he express any disappointment about the parents not being there? A. He would rather that they had stayed there. He was upset.

Q. Yes, but what did he do physically? A. Well, as I remember it, he cried when they told him he would not be around, but Mr. Hiss explained it was just for 24 or 48 hours, and it was because he had to go back and finish up some business.

Q. How old was the boy then, about? A. I don't know. I would say around 10 or 12; something like that.

Q. Can you remember what month that was? A. It would be the early part of June.

Q. Well, was it at a time when Mr. and Mrs. Hiss were there? A. They had just gotten down.

Q. They had come just for the day you mean? A. Well, my understanding was that they had come down for the summer and they took up residence in Chestertown, and I visited them in Chestertown when they were there.

Q. And it was after that? A. They had just gotten settled or had not even gotten settled yet, I don't know; they may have only been in Chestertown two days. I really can't remember.

Q. Or it may have been longer? A. It may have been [4389] longer.

Q. But what you do remember is the father telling the boy he had to be away for a little while?

A. That is right. I just remember the incident, not the time.

Q. And the boy crying and not participating in camp activities thereafter? A. That is right.

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. Mr. Grieb, you testified at the first trial, didn't you? A. That is right.

Q. You were called by the defense? A. That is right.

Q. Do you recall your testimony at that time? A. Parts of it, yes, sir.

Q. Did you testify at that time that Mr. Hiss while he was down there was out to see Timmy every day? A. No, sir, I did not. I said practically every day. I still can't say whether he was there every day or not. He was there, as I testified, I believe, the first time, frequently enough so that his presence was taken for granted by me.

Q. And at that time you thought that he had been there practically every day? A. That is correct.

Q. And you so testified? A. That is correct, and I still think so.

[4390] Q. And you still think so? A. Yes, sir.

Q. You spoke of being down at their apartment. Was that at Mrs. Wickes'? A. Yes.

Q. And you knew that they had an apartment there for a month or so? A. Yes.

Q. And spent weekends there, came out weekends? A. I couldn't say when they came out. I mean, the way I remember it Mr. Hiss was out almost every day at camp. In other words, he had nothing to do in the apartment, but I couldn't testify as to any one day that he was there or any one day that he wasn't there, because I can't remember.

Q. And you think that this occasion was sometime in June 1937? A. That is right, right after he came down for the summer.

MR. CROSS: That is all.

Redirect Examination by Mr. Murphy:

Q. Right after Mr. Hiss came down for the summer? A. That is right.

MR. MURPHY: Thank you very much.

(Witness excused.)

RITA I. Y. REYNOLDS, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Miss Reynolds, you are my secretary, are you not? A. I am, Mr. Murphy.

Q. And about a week or two ago one night did I ask you to get some paper for me? A. Yes, sir.

Q. What kind of paper did I ask you to get in the building? A. The type of paper that is used as second sheets or tissue copies.

Q. And what did you say in answer to that? A. That I would get them and I could not—

MR. CROSS: Just a moment. I submit we ought not to have conversations with Mr. Murphy's office and I object.

Q. Well, did you volunteer that you could get some also from your home? A. Yes, I did, Mr. Murphy.

Q. And did you the following day bring some second sheets from your home? A. I did.

Q. How long had they been in your home, do you know? A. Well, they were sheets of paper which I took from a box we had at home. They were paper which my father had used. My father purchased them in the early '30s.

Q. And they are the second sheets for typing, is that [4392] right? A. That is right.

Q. And are these some of the papers you brought me (handing)? A. Yes, they are.

MR. MURPHY: I now offer in evidence this group of papers.

(Marked Government's Exhibit 66 for identification.)

MR. CROSS: I object to these, if your Honor please, as irrelevant. We have not had any chance to see these or have any examination made or anything, or any chemical tests. It certainly does not seem to me to be proper rebuttal testimony.

THE COURT: I shall allow it.

(Government's Exhibit 66 for identification received in evidence.)

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. Do you know where this paper came from originally? A. My father purchased it. I don't quite understand your question.

Q. I mean do you know the source of it? A. He purchased it in a store.

Q. I mean do you know that of your own knowledge? A. Certainly. I know my father purchased paper.

Q. I mean do you have a recollection of this particular matter in 1930? A. My father died in 1934 [4393] and the paper was purchased some time in the early '30s.

Q. What I am trying to get at is you never at any time had any talk with your father about it and don't know where this came from? A. I know the stationer from whom my father usually purchased his supplies. Yes, I do.

Q. This particular paper, you never had any talk with your father about it? A. I am sorry, sir, I don't understand your question.

Q. You never had any talk with your father about this paper, did you, Government's Exhibit 66 (handing)?

A. I am sorry I don't understand your question. I know that that paper we had at home.

Q. No. Did your father ever say anything to you about that type of paper he had purchased? A. I am sorry, sir, I don't quite understand what—what do you mean? Did he say anything to me about it?

Q. Did you ever have any talk, up until your father died in 1934, about this paper and where it came from? A. I don't understand what you mean, sir. My father purchased paper and this is a portion of it that he purchased.

Q. No, please. Did you have any talk with your father about this paper before he died in 1934? A. I am sorry I don't understand what you mean, sir.

Q. Well, did you ever have any talk with your father [4394] about the paper that you brought in to Mr. Murphy and that has been marked as a Government's exhibit? A. I am sorry. As I understand the question that is exactly what you asked before and I have answered that I don't understand your question, sir.

MR. CROSS: Well, then, I cannot make it plainer. That is all.

MR. MURPHY: Thank you, Miss Reynolds.

(Witness excused.)

JOHN S. McCOOL, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. You are a special agent, are you, Mr. McCool, with the FBI? A. Yes, sir.

Q. Can you type? A. Yes, sir.

Q. Would you bring your chair over there and some of that paper. A. (Witness sat before typewriter, Exhibit UUU.) The paper—

Q. I am going to give you part of Government's Exhibit 66 and ask you to copy Baltimore Exhibit No. 32.

A. (Witness complied.)

MR. MURPHY: Thank you.

Will you mark that and I offer it in evidence as Government's Exhibit 66-A.

(Marked Government's Exhibit 66-A.)

MR. MURPHY: You may examine.

MR. CROSS: No questions.

(Witness excused.)

[4395] FRANCIS J. DUANE, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mr. Duane, you are a special agent of the FBI, are you not? A. That is correct.

Q. Attached to the Washington Field Office?

A. That is correct.

Q. In October of this year did you make an examination of certain newspapers on file at the Library of Congress?

A. I did.

Q. What newspapers did you look at? A. I made an examination of the real estate advertisements that appeared in the Washington Post, the Washington Times, the Washington Herald, as well as the Washington Evening Star.

Q. For what period? A. Covering the period from October 1, 1937, to December 15, 1937.

Q. And did you find certain ads? A. I did.

Q. And, generally speaking, what ads were you looking for? A. I was looking for an advertisement—

MR. CROSS: I submit that what he was looking for—if he has anything I think it ought to be offered and let us pass on it.

MR. MURPHY: I should think I should be entitled to ask him what particular type of ads he was looking for [4396] so I can identify the exhibits I have in my hand.

THE COURT: Oh, I should think so, Mr. Cross.

Q. You may tell us what you were looking for.

A. I was looking for advertisements showing the rental of 3415 Volta Place, Northwest, Washington, D. C.

Q. Did you have, in addition to the address, the telephone number also? A. I did.

Q. Do you remember the telephone number of that address? A. The telephone number was West 1617J.

Q. And how many ads did you find? A. I found a total of five advertisements.

Q. And, then, did you photograph them? A. I made photographs of these advertisements.

Q. That is, you photographed the newspaper in the Library of Congress? A. That is correct. I made the photographs there in the Library.

Q. Then did you enlarge the photographs A. I didn't do it personally; I had it done.

Q. I show you these five photographs and ask you

whether these are the enlargements of the photographs that you took? A. These are the enlargements.

Q. How can you tell that they are? A. By my identification which is placed on the bottom. I have placed my name and the fact that I am a special agent with the FBI, as well as the date the photographs were taken.

[4397] Q. I notice four of them are dated October 4, 1949, and one is dated October 2, 1949. A. That date of October 2, 1949, is incorrect. October 2, 1949, fell on a Sunday. The photographs were made on Tuesday, which is October 4th. However, in making up that identification I inadvertently dated the identification as of October 2nd, whereas it should have been October the 4th.

Q. That is on one of them? A. That is correct, sir.

Q. Did you make the identification all on the same date? A. Yes, sir.

(Mr. Murphy hands to Mr. Cross.)

Q. Mr. Duane, who typed on the back of each one the date and the newspaper that the ad appeared in? A. I instructed a stenographer in the Washington Field Office to make the identification.

MR. MURPHY: I offer these five as one exhibit.

(Marked Government's Exhibit 73.)

MR. MURPHY: Ladies and gentlemen, this group of photographs: The first one is from the Classified Section of the Washington Sunday Star, October 17, 1937, and it reads: "Seven-room brick house, two-car garage"—I am sorry. "Georgetown, remodeled home on quiet street. Walled garden, terrace, sun deck, open fireplace, three bedrooms, automatic heat, West 1617J."

The next one, which appeared in the Washington [4398] Star of October 26, 1937:

"Georgetown, remodeled house, three bedrooms, sun deck, terrace, walled garden, open fireplaces, two stairways, oil burner, insulated, on quiet street, West 1617J. Can be seen day or evening."

The next, Washington Star, October 27, 1937, exactly the same as the one that I have just read.

The next, October 28th, in the Washington Star, exactly the same.

And the last appeared in the Washington Post on Sunday, December 5, 1937, and that reads:

"Georgetown, 3415 Volta Place, Northwest. Remodeled six-room house with attic, automatic heat, insulated, walled garden, terrace, sun deck, two stairways, open fireplaces, large living room, open for inspection Sunday from 10:00 a.m. to 6:00 p.m."

You may examine.

Cross Examination by Mr. Cross:

Q. Mr. McCool—

MR. MURPHY: No. This is Duane.

A. Duane.

Q. Mr. Duane. I am sorry. When you were looking for those ads, did you know that this lease had been signed for 3415 Volta Place on December 2nd?

MR. MURPHY: No, there is no testimony that it [4399] was signed on December 2nd. The testimony is that that was a lease dated December 2nd and so signed.

Q. Did you know about this lease, the date of it?

A. No, I did not.

Q. You were not told that there was a lease dated December 2, 1937? A. I didn't know that.

Q. For 3415 Volta Place? A. I didn't know that, sir.

Q. The parties signed that, purported to sign, on December 2, 1937. A. I didn't know that.

MR. CROSS: That is all.

I have referred to Government's Exhibit 69. May I have that, so that I will refer to the original exhibit?

(Mr. Murphy hands exhibit to Mr. Cross.)

MR. CROSS: Government's Exhibit 69, ladies and gentlemen of the jury: This agreement made this 2nd day of December, 1937, between Catherine H. Flannigan, party of the first part, and Alger Hiss, party of the second part, and concludes "In witness whereof the parties hereto

have hereto set their hands and seals on the date first above written."

MR. MURPHY: Thank you, Mr. Duane.

(Witness excused.)

[4400] EDITH MURRAY, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Mrs. Murray, you have never been in court before, have you? A. No, sir.

Q. Do you live in Baltimore? A. Yes, sir.

Q. Are you married? A. Yes, sir.

Q. How many children? A. Just one little boy.

Q. One little boy? A. Yes.

Q. Do you work as a domestic? A. Well, I am not working now; just a home wife.

Q. But have you worked? A. Yes.

Q. Have you always more or less worked in Baltimore?

A. Yes, sir.

Q. Did you ever work for a couple known as Cantwell?

A. Yes, sir.

Q. What were their names, first names? A. His name was Lloyd.

Q. Lloyd Cantwell? A. Yes.

Q. And did you work for them at the same address all the time or different addresses? A. No, first I worked for them at 903 St. Paul Street, and then I worked for them at 1617 Eutaw Place.

Q. Eutaw Place? A. Yes.

[4401] Q. And what did the Cantwell family consist of?

A. Just her and her husband and the baby.

Q. Was it a boy or a girl? A. No, it was just a little girl.

Q. Do you remember the girl's name? A. We used to call her Peachie.

Q. Peachie? A. Yes. We used to call her Peachie.

Q. What was her given name, do you know? A. I think it was Elinor, I think. Elly I only knew her.

Q. Well, when was it that you worked for these people on St. Paul Street? A. That was around about 1934.

Q. What sort of work did Mr. Cantwell do, do you know?

A. She told me he was a travelling salesman—

MR. CROSS: Just a moment. I object.

Q. If you know.

MR. CROSS: I object to what the conversation was between the witness—

MR. MURPHY: I think the objection is sound, your Honor.

Q. Was he there frequently or infrequently? A. Well, he used to go away and come home weekends.

Q. And how long did you work for the Cantwells at St. Paul Street? A. Well, I worked for them in 1935, in the fall, and in the spring of 1936.

Q. Well, in 1936 did you work for them at St. Paul Street [4402] or Eutaw Place? A. No, at Eutaw Place.

Q. At Eutaw Place? A. 1617 Eutaw Place.

Q. Where was the apartment? Was it an apartment house? A. Yes, it was a house made into apartments. They lived on the second floor.

Q. Do you remember when they moved in? Were you there when they moved in? A. Yes, I was there when they moved because I had to clean the apartment.

Q. And how long did you continue to work for them at Eutaw Place? A. Well, they came there in the fall and then they left in the spring.

Q. And you worked all that time, did you? A. Yes.

Q. What were your hours? A. Well, my hours was from 9, 9:30, to maybe 6:30, a quarter to 7 or 7.

Q. Did you have any days off? A. Yes, sir.

Q. Did they have many visitors? A. They didn't have any visitors, only two visitors that I know of.

Q. The visitors that you know of, where did they come from? A. Well, they came from—

MR. CROSS: Just a moment. I object unless—

THE COURT: The objection is sustained, Mr. Cross.

Q. Did these visitors tell you where they came from and where they lived? A. The lady did. She said she lived in Washington.

[4403] MR. CROSS: Just a moment. She has not identified anyone.

THE COURT: I beg pardon?

MR. CROSS: She has not identified anyone yet, if your Honor please.

Q. Well, would you remember the lady? A. Yes, sir.

Q. You would remember the lady? A. Yes, I remember.

Q. Do you see her here in court? A. Yes, sir.

Q. You do? A. Yes.

Q. Would you get off the chair and point out the lady to us? A. (Rising) There is the lady right there with the black hat with the thing on the side (indicating).

MR. MURPHY: Is it conceded that she pointed to Mrs. Hiss?

MR. CROSS: I think so, yes.

MR. MURPHY: All right, you may sit down.

Q. Where did you see that lady, Mrs. Murray? A. Well, she visited Mrs. Cantwell in Eutaw Place.

Q. That is in Baltimore? A. Yes, sir.

Q. Was that the lady who told you she came from Washington? A. Yes, sir.

Q. Did she tell you anything about her family at all?

A. Well, she came there and stayed overnight when Mrs. Cantwell had to come here in New York to see the doctor.

Q. What was the matter with Mrs. Cantwell? A. Well, [4404] she was pregnant at the time and she had to come to New York here to see the doctor. So she came over,

and so she stayed overnight, and so while we were in the bathroom with the baby, I gave her the bath and told her to sit to have a bowel movement, and I asked her did she have any children, and she said yes; she said she had one little boy; that is the only conversation we had.

Q. Well, did you serve breakfast? A. Well, it has been so long I don't know whether I served breakfast or she was finished when I come. I think she was finished when I come, I am not sure.

Q. But you remember Mrs. Cantwell being pregnant?

A. Yes.

Q. And going to New York? A. Come to New York here.

Q. And this happened at Eutaw Place; the house was at Eutaw Place? A. Yes, sir.

Q. Well, you said that she didn't have too many visitors there, she had a few, and you have pointed out one lady. Who else do you remember? A. Well, she came there one night with her husband just as I was getting ready to leave. I was in the kitchen cleaning up and was getting ready to leave, and the bell rang, and I went to the door, and then her and her husband came in.

Q. Was that the same night that Mrs. Cantwell went to [4405] New York? A. No, that was afterwards.

Q. Would you be able to identify her husband?

A. Yes, I couldn't help but remember him.

Q. You couldn't help? A. No.

Q. Would you stand up and point him out to us?

A. There is Mr. Hiss right there (indicating).

Q. And he is next to Mrs. Hiss? A. Yes.

Q. Did you know their names were Hiss? A. Well, Mrs. Cantwell, I think she introduced Mrs. Hiss—

MR. CROSS: Just a moment. Unless this is claimed to be in the presence of Mr. and Mrs. Hiss—

THE COURT: Sustained, Mr. Cross.

MR. MURPHY: You may sit down, Mrs. Murray.

Q. What did you call the lady and the gentleman, if you remember? A. Well, I didn't call him anything. He came in and I had seen her before, but that was the first.

time I had seen him when they came in, so I wasn't introduced to him at all, because I was getting ready to go, and I let them in, and I had to finish up what I had to do, and I come on to go through where they were, and I bid them all good-night, and I went on home.

Q. Well, what did you call this lady? A. Miss Priscilla.

Q. Miss Priscilla? A. Yes.

[4406] Q. That was in 1936, or whenever it was that they lived on Eutaw Place—did you stay there until they moved out of Eutaw Place? A. Yes. I was there when they left.

Q. And do you remember any of the furniture?

A. She did not have very much furniture. She had a bed in the bedroom and a bureau in her room, and the baby's room they had a baby's bed, and I think a chest of drawers, and of course the dining room were just tables and chairs and of course the living room, there was not very much furniture in there.

Q. When did you see the Cantwells last? How recently have you seen them? A. Well, I saw them around —it was in November.

Q. November of last year? A. Yes.

Q. And how did you get to see them? A. Well, the FBI had been looking for me and so they came to the house to take me out there to their farm to see if they were the same people I had been working for.

Q. Did you tell the FBI the story before you took them out? A. Yes, they asked me first, and I thought probably they had moved back to Baltimore and was looking for me to work for them.

Q. You thought you were going to work again for the Cantwells? A. Yes.

[4407] Q. Where did the FBI take you then? A. Took me to Westminster.

Q. Some apartment house there? A. No, a farm. They live on a farm.

Q. And did you see Mr. and Mrs. Cantwell? A. Yes.

Q. Were those the people that you worked for?

A. Yes, they were the very people I worked for on Eutaw Place.

Q. And they told you what their name was? A. Yes. I was surprised when they told me.

Q. What did they tell you their name was? A. Chambers.

Q. Did you see the little girl, Peachie?

A. Yes, I saw her. She is a great big girl now.

Q. Did you see any of the furniture you used to see at Eutaw Place? A. I think I saw a rug there, a brown rug. Of course it had been worn, and the dining room table and some chairs, and I could not remember the others. I did not go upstairs.

Q. Did you recognize the table and the rug? A. The table and the brown rug were all I have recognized, and some chairs.

Q. I am going to show you a picture that is marked Government's Exhibit 35 and ask you whether that is a picture of the lady that you knew when you worked for the Cantwells at Eutaw Place? A. Yes, sir. This is her.

[4408] Is that the lady you knew as Miss Priscilla? A. Yes. That is her.

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. When did you first start to work for the Cantwells?

A. Well, I worked for them on St. Paul Street in 1934.

Q. Where did they live at 903 St. Paul Street?

A. That is where they lived; 903 St. Paul Street.

Q. No, but whereabouts? Is that just a one-floor building? A. Oh, they lived in a house turned into an apartment. It was a house but they had apartments, had turned it into an apartment house.

Q. And that was 1934? A. Yes, 1934.

Q. And what floor did they live on? A. Third floor apartment.

Q. And there was an apartment downstairs? A. No. It was upstairs on the third floor, the last floor.

Q. But on the second floor, what was on the second floor?

A. Well, it was two old maids they lived there, and they had the second and the first I am sure.

Q. Did they have doorbells down there at 903?

A. Yes, they had a doorbell, but I can't remember whether each one had a doorbell or they just used one.

Q. And the names were on the doorbell? A. I just don't remember.

[4409] Q. Was the name "Cantwell" on the doorbell?

A. I don't think so. I just can't remember.

Q. Did they have a mailbox there? A. I don't remember that either.

Q. When was it you started to work for them?

A. When was it I started to work for them?

Q. Yes. A. Well, I think it was in the fall of the year.

Q. 1934? A. Yes, and then they left in the spring. She left in the spring and said she was coming here to New York to live. That was either around April or maybe May, but it was in the spring of the year.

Q. That would be 1935? A. Yes, and then she came back that fall in 1935, and then I went to work for her again.

Q. Where was it you worked in the fall? A. Well, that was 1617 Eutaw Place that fall.

Q. You worked at 903 St. Paul Street from the fall of 1934 until the spring of 1935? A. 1935, when she came back.

Q. And this Mrs. Cantwell said she was coming up to New York? A. To live.

Q. And you did not see them from then until some time at Eutaw Place? A. Yes, sir.

Q. Then how long did you stay at Eutaw Place?

A. Well, I stayed there until the spring of 1936. She left around about April or May or one of those months—[4410] just can't remember.

Q. Do you know where they went? A. Well, they said they was going to California.

Q. Did you work continuously during that time?

A. Yes, sir.

Q. And then when next did you see them? A. Well, I just saw them in November.

Q. In November of this last year? A. Yes.

Q. What time in the spring of 1936 was it that they left? A. I don't know whether it was April or May.

Q. Now, during the time they were at St. Paul Street, were you there every day? A. Yes, sir.

Q. And you saw Mr. Cantwell, as you knew him, just weekends? A. Just weekends?

Q. Yes. A. I don't understand.

Q. Well, I understood you to say that he went away on trips? A. Oh yes, Mr. Cantwell. Yes, I only would see him on weekends.

Q. Just weekends? A. Yes, sir.

Q. Did you make the beds? A. Yes, sir.

Q. What? A. They only had one bed.

Q. Do you know whether or not he stayed there or came in after you left at any time? A. No, I don't.

Q. But as you recall it he was away during the week and came home weekends? A. Yes.

[4411] Q. And I think you said Mrs. Cantwell said he was a travelling salesman? A. Yes.

Q. That was true during the entire time you lived there? A. Yes, all the time I worked for them.

Q. When was it you first saw the lady that you pointed out? A. Well, I could not exactly say when it was, but after they moved from Washington, she said she had moved from Washington to Eutaw Place, and then she came there and then after that Mrs. Cantwell told me—

Q. No. Just when did you first see her? A. The first time I saw her was at Eutaw Place.

Q. Eutaw Place? A. Yes, sir.

Q. And that place you say you worked at in the fall of 1935 until the spring of 1936? A. Yes, sir.

Q. Do you remember the occasion? A. When?

Q. Do you remember whether it was daytime or— A. Oh, it was always—well, when she would come alone she would come in the morning.

[4412] Q. And how long would she stay? A. I guess she stayed until afternoon.

Q. She stayed until the afternoon? A. Yes.

Q. How many days a week would that occur?

A. Well, I just couldn't say, because I remember distinctly seeing her about four times and probably more than that, but I just can't say.

Q. Come in the morning and stay until some time in the afternoon? A. Yes.

Q. And can you give his Honor and the jury any idea about when it was after they moved to Eutaw Place that you first saw her? A. I just can't say. I don't know whether it was one afterwards or when I first saw her.

Q. Was she alone? A. Yes.

Q. Mr. Chambers wasn't there—Mr. Cantwell wasn't there? A. No.

Q. Do you remember anything more that you can tell his Honor and the jury about the first time you say you saw her? A. Well, no, I don't remember anything—she would come, when she would come there Mrs. Cantwell was always there to see her, and she seemed to be glad to see her and the baby, and she was very nice.

Q. I am trying to get the time. A. The time. Well, I couldn't exactly tell you the time. All I can [4413] say is that it was in the morning, I guess, maybe around 10 or 11 o'clock, something like that.

Q. She stayed until what time? A. I guess she stayed until in the afternoon, some time in the afternoon. I just can't tell you that. I know she wouldn't be there for supper.

Q. You got supper for them, didn't you? A. Yes, sir.

Q. There was never any occasion where Mr. and Mrs. Hiss came to supper at St. Paul Street? A. No.

Q. Now at Eutaw Place did she— A. Not at St. Paul Street, because I never saw him at St. Paul Street, not at St. Paul Street, I never saw him there.

Q. It was only Eutaw Place? A. Yes, that is the onliest place that I saw him.

Q. How many times did you say you saw Mrs. Hiss at Eutaw Place? A. I saw her about four times. I saw her three times alone and once with her husband.

Q. When the FBI took you out to the farm where Mr. and Mrs. Chambers live had they already shown you a picture of Mrs. Hiss? A. Yes, they showed me a picture of her.

Q. Did they tell you who it was? A. No. They asked me did I know this lady, and I said it looks like someone that I know. It looked like—I thought maybe it was an actress or something. I say it looks like [4414] someone I know, but I just couldn't remember at that time.

Q. Looked like somebody you knew? A. Yes.

Q. Now when you were asked to point out Mr. Hiss I thought you said of course you recognized him.

A. Yes.

Q. Is that what you—have I quoted you correctly? A. I recognized him because I was up here on the 17th of November, and I identified him, and after I saw them I knew him right away, that it was them.

Q. Well now, you say you came up here on the 17th of November. Did the FBI bring you up? A. No, they sent me up.

Q. Sent you up? A. Yes.

Q. Did someone come with you? A. Well, they take me to the station and then someone met me at the station here.

Q. And they brought you over to the court building? A. Yes, sir.

Q. Where did they take you after they brought you to the court building? A. Well, I just stood out in the hall, and it was a crowd of people. They asked me did I see anybody in the crowd that I know, and I looked around, and I didn't see anyone at this time, and stood there and stood there; so, then, after a while, in the back of me where I was standing was an elevator, in the back [4415] of me, like, and I looked around, and then I see Mr. and Mrs. Hiss come over, and right away I knew them.

Q. You had been shown a picture of Mr. Hiss by the FBI, hadn't you? A. Yes.

Q. And you were told when you came up here that you—

A. To see if I could recognize them. They didn't tell me who they were at all.

Q. You were taken by the FBI down to the Westminster Farm, were you? A. Yes, sir.

Q. And were you shown pictures of Mr. and Mrs. Chambers before you got down there? A. Yes, sir.

Q. And the only time you ever saw Mr. Hiss you say was once? A. Yes, I saw him once.

Q. And you were just getting ready to leave? A. Yes.

Q. You didn't serve dinner that night? A. No, I didn't.

Q. How long did you see him on that occasion? A. Well, I went to the door, and then he came in, he smiled, and then I went on in back in the kitchen. I come back. And of course I could see the difference of the two couples, and right away I take notice, because she never had no company at all, only those two. And when I see him I seen the difference in the two of them, and naturally I noticed.

Q. That is the only time you ever saw him?

[4416] A. Yes, that is the onliest time.

Q. You saw him for a period of about five minutes? A. Well, more than that; and when I came back in the room.

Q. Now, going back to Eutaw Place, do you remember the second time you saw Mrs. Hiss? A. Well, I think Mrs. Hiss came over there the second time when she had to come to New York, Mrs. Cantwell had to come to New York.

Q. When was that? A. That was during the spring.

Q. The spring of what year? A. 1936.

Q. That you have told us about. When was the third time? A. Well, I just can't exactly say this, but I saw her four times altogether; when she first came there, and then when she came back to stay overnight, when she came back that time to stay overnight, and then the next morning when I went there, that made the third time, and then

I saw her with her husband. That is the fourth time I saw her. I know then I saw her. I might have seen her more than that, but I just can't say. But I know I saw her those many times.

Q. You have counted up then and you recall that there are four times? A. Yes, sir.

Q. You can't tell us when the third time was?

A. Well, I just can't say. I don't know whether it was the third time was when—it was— she came there the second time, and the third time was the next day [4417] when I came in for work.

Q. Then the next time you say you saw them together? A. Yes, I saw her and her husband.

Q. What time of day was that? A. That was in the evening, because I was getting ready to go, I guess between 6 and 7. I just don't know the time, but I was getting ready to go.

Q. Do you remember what time you got through that particular day? A. I was never no later than seven o'clock, the latest.

Q. Did they introduce Mr. and Mrs. Hiss to you? A. No, because I went to the door and I let them in.

Q. Well, where were Mr. and Mrs. Cantwell at the time? A. I am not sure whether he was there or not, but I know she was there.

Q. You don't remember his ever being there except weekends, do you? A. No, sir.

Q. And that was true when they lived at 903 St. Paul Street and also at Eutaw Place? A. Yes, sir.

Q. Never there except weekends? A. That is all.

Q. What time would he get there weekends? A. Well, sometimes he would come home Fridays, Friday nights, maybe some time Saturday; I am not sure.

Q. When would he leave? A. He would always leave on Monday; maybe sometime he would leave Sunday night; [4418] I just can't remember.

Q. But during the weekdays he was never there? A. He was never home.

Q. At either place? A. No.

Q. The only time that you saw him was weekends? A. Weekends.

Q. You can't recall whether on this occasion that Mr. and Mrs. Hiss came, as you say, he was there?

A. No, I don't remember him being there.

Q. The last time you worked for them was in the spring of 1936? A. Yes, sir.

Q. And then you were told that they were going to California? A. Yes, sir.

Q. Who did you first see about this case, or who was the first person who talked to you about the case? A. About this case?

Q. Yes. A. One of the FBI men. Mr. Metzell, I think his name is.

Q. When was that? A. That was in November.

Q. What time in November? A. The early part of November.

Q. Was there a second man with him?

A. He came alone one Sunday, one Sunday night he was by himself; he said he was looking for me.

Q. When he came how long did he stay? A. Well, he didn't [4419] stay very long. He just asked me my name, showed me a picture that Mrs. Cantwell had drawn of me, but it was a little miniature picture which he had drawn off a large picture. She had painted a picture of me, and he had made a small miniature of it, had drawn it off the large picture, and he showed me the picture, and said, "Do you know who this is?"

I said, "Yes," I said, "that is me."

So I said—oh, I said, "Is Mr. Cantwell back in Baltimore? Are they looking for me to work for them?" Because they were very nice people to work for, and I was all up in the air; I thought they were looking for me to work for them.

Q. Then he told you they weren't really looking for you to work for them, is that right? A. He said Mr. Cantwell was going to come in and see me. Still he didn't tell me anything.

Q. How long did he stay? A. He stayed I guess about maybe 10 or 15 minutes.

Q. When next did you see anyone? A. This was on a Sunday. That Monday he and Mr. Johnstone and another FBI man, a Mr. Kauff, I believe—there was three of them came, and they asked me questions, but still I don't know what it was all about.

Q. How long did they stay at that time? A. Well, [4420]I guess they stayed maybe about 20 minutes or a half hour, something like that; just asked me some questions.

Q. When next did you see anyone? A. Seen the FBI men?

Q. Yes, anybody that you talked with about the case. A. I just can't remember how often I saw them, but they was around there for quite a while there once.

Q. You say "quite a while." You mean several days? A. Well, yes, sir. They come down on a Sunday, come there on a Monday, and then they were back again, I believe, that very week, and then I think that Monday they take me out to see the Chambers down to the farm if I could recognize them.

Q. Well, the first time was Sunday? A. Yes, the first time Mr. Metzell saw me was on a Sunday. Then the other two men saw me on Monday.

Q. Was that the time you went out to the farm? A. Yes.

Q. Then when next did you see anyone? A. Well, I think he come back again and asked me could I come to New York to see if I could identify the Hisses.

Q. Well, did they use the name "Hisses"? A. No. Identify the lady and man. I just learned that after I came up here, about the Hisses, asked me could I identify the man and the woman who visited the Cantwells on [4421] Eutaw Place.

Q. Now, you say that they never mentioned at any time the name "Hiss"? A. They never, never—I didn't know who they were until I come up here—

Q. No, I say did they ever mention the name "Hiss" to you? A. No, not until afterwards. I mean, after I come up here and found out what it was all about.

Q. And then they told you it was Hiss? A. Yes, it was the Hiss trial.

Q. Now, were you shown a picture of Mr. Hiss? A. Yes, they showed me a picture.

Q. Who showed you that? A. The FBI man.

Q. What day? A. One of them, Mr. Metzell, showed it to me on Sunday.

Q. And he also showed you one of Mrs. Hiss? A. Yes.

Q. When next did you see a picture? A. Well, I didn't see the pictures any more until I come up here and saw them.

Q. Did you ever read the papers? A. No, sir.

Q. Beg your pardon? A. No, sir, I never bothered about reading the papers, because I was sick in 1942 and I had a nervous condition, and the doctor told me not to read anything that would upset me, so I never bother with the papers at all; that is why I did not know [4422] anything about it.

Q. You never saw— A. Anything in the papers at all.

Q. Have you ever seen any pictures, heard anything at all? A. No, because I never go out except maybe to the movies once a week, and just listen to the radio, and I did hear something about some filling was found in a pumpkin on a farm in Westminster, but I still didn't pay any attention to that.

Q. You have been to the movies and seen newsreels, haven't you? A. Well, yes, I seen newsreels, but still I didn't see them in the pictures.

Q. Did you see about the pumpkin? A. No, never.

Q. When was it you heard about the pumpkin? A. I just heard that over the radio, I don't know when it was, because I didn't pay any attention to it.

Q. Well, do you remember when it was?

A. No, I don't know. I was sitting up there and I never paid any attention to it.

Q. Well, how do you happen to remember about the pumpkins? A. Oh, well, I just heard it over the radio, and then my husband, he said something about it; and so then after this, then I heard about it after I come up here

and all, and I got a little interested in it, just a little, not much.

Q. What did your husband say about the papers?

[4423] A. He just say they found some filling in the pumpkin out on a farm out in Westminster.

Q. When was it he told you that? A. That was when he heard it over the radio.

Q. When? A. I don't know just when it was, I just can't remember when it was.

Q. How do you happen to associate that? A. Only on account that the Cantwells lived out there, and, of course, after I come up here and found they lived out there, and it was out in Westminster on a farm, then I asked Mr. Johnstone, and he said it was found on their farm. That was all I know about it.

Q. You remembered, or you say that you knew that the Cantwells lived out at Westminster? A. After they had taken me out—after the FBI had taken me out there; I didn't know it at first.

Q. And you remembered from what your husband had told you about what he heard over the radio—

A. About some pumpkins—

Q. About some Westminster farm, and you remembered that when you went out there? A. I don't think I heard it then.

Q. When did you hear it? A. I don't know when I heard it. I just can't remember. I didn't pay much attention.

Q. Can you tell his Honor and the jury whether you [4424] heard it a year ago? A. Oh no. It was here lately, last year—I don't know what month it was; I don't know whether it was November or October or what.

Q. Well, your husband told you that they had just found something in a pumpkin? A. He said he heard over the radio something, about some filling was found in a pumpkin; so I didn't pay it no mind.

Q. That was before you went out there? A. Yes.

Q. How much before? A. I don't know.

Q. Well, I mean, can't you help us at all? A. Well, I just can't remember because I didn't pay it any mind.

Q. But you did when you went out and met the Chambers again associate this with what your husband had told you? A. Well, after my husband told me, then I asked Mr. Johnstone, was that the farm, and he said yes.

Q. When did you ask Mr. Johnstone that?

A. When he was taking me out there.

Q. That is, when you were on your way from Baltimore on Monday, which is the second time you ever saw the FBI, and before you got there, you asked Mr. Johnstone if the Westminster farm was where they had found the pumpkin? A. Yes.

Q. Well, when the FBI came to get you on Monday did they tell you where they were going?

A. They said they were taking me out to see the [4425] Cantwells, to see if they were the same people that I worked for. He said he would take me out to see the Chambers, he said, to see if they were the same people I worked for, as Cantwell.

Q. What did they say when they came to see you on Monday? A. They just asked me different questions.

Q. I mean about going out. A. They asked me, could I go out there? And I have a little boy, and he was in nursery school, and they asked me if I could get somebody to take him out of the school, and they would take me out to see the Chambers—to see if they were the same people I worked for in Baltimore; and I said yes; and I went to see a friend of mine on McCullough Street, and she went to see the little boy until I came back from out there, because I didn't really know what it was all about when he was asking me questions.

Q. Yes, I know; you told us that; but where did they say they were going? A. Out to Westminster.

Q. They said "We are going out to Westminster"?

A. Yes, to the Chambers, going to take me out to the Chambers out to Westminster.

Q. And then on the way what did you ask Mr. Johnstone? A. Well, I asked him about was that the farm where the pumpkin was, because he said he is taking me out to this farm where they found this pumpkin with the filling in it.

[4426] Q. He told you that on the way? A. No, I asked him, was that the farm where they had found this filling in the pumpkin.

Q. Well, did he mention the name "Chambers"? A. He said he was taking me out to the Chambers house to see if they were the same people.

Q. And it was you who asked him if that was where they had found the pumpkin? A. Yes.

Q. And what did he say? A. He said yes.

Q. What else did you say to Mr. Johnstone? A. I don't think I said anything else because I was anxious to see the Chambers.

Q. That is all that you can remember that was said from the time you left your place in Baltimore until you got to Westminster was you asked if that was the farm where they had found these things in the pumpkin? A. Yes. Then I was asked about children, because she had a little girl named Ellen, and I was anxious to see her. Of course, the boy, I didn't know anything about him.

[4427] Q. What else? A. There was not very much else he asked me.

Q. What did you say to him? A. And he wanted to see if I could recognize any of the furniture out there.

Q. He brought up the matter of the furniture? The last time you had worked for them was 1936?

A. 1936.

Q. Where did you go in the house out there? A. Oh, I just was downstairs.

Q. Who showed you around? A. Well, Mr. Johnstone and Mrs. Cantwell. She went around with us to look at the furniture.

Q. What rooms did you see? A. I just saw the dining room and living room and the kitchen, and of course they have other little rooms there.

Q. What was in the dining room? A. I think she had a table and chairs and I think she had a china closet. I think. I am not sure.

Q. Did they ask you if you had remembered those different pieces? A. They asked me if there was anything in there I remembered and I said, well, the table and

the chairs looked like I remembered, and the rug on the floor, the brown rug. I didn't remember that other.

Q. What was it you did not remember? A. The other furniture of the house she asked about, some rug did I [4428] remember, and I told her "No."

Q. She asked you what? A. About another rug she had and she asked did I remember it and I told her no.

Q. Where was that? A. That was when she was living on Eutaw Place.

Q. No. I say where was that? A. Out to the farm.

Q. In what room? A. Well, I went in the dining room and there was a rug in there, and in the living room was a rug and she asked did I remember an oriental rug, I believe, or something like that and I told them "No."

Q. Which one did you remember? A. I remembered the brown rug because—

Q. What room was that?

MR. MURPHY: Because what?

THE WITNESS: I remembered the brown rug because every time I go to clean it I had a time getting it cleaned.

Q. So that is the way you remembered that so well? A. Yes, I had trouble cleaning it.

Q. When they lived at Eutaw Place was there only one rug? A. I am quite sure she had other rugs there but I just have forgotten.

Q. How many rooms did they have over at Eutaw Place? A. Well, she had a living room and she had a dining room, and then she had a little off room that was more like a den and then she had a bedroom and the [4429] baby had a bedroom and a kitchen and bath.

Q. There were rugs on all the floors? A. No. I think in the bedroom they had scatter rugs.

Q. How many large rugs did they have? A. I know she had one in the dining room. I just can't remember whether in the living room or not.

Q. Well, that was the brown one? A. Yes.

Q. What was the kind of rug that you did not remember out at the farm? Tell us about that. A. Well,

she asked me about oriental rug, did I remember that, and I told her "No."

Q. Now this is Mrs. Chambers going around with you in the house? A. Yes, and Mr. Johnstone, both was going around.

Q. And she would ask if you remembered this rug and that rug? A. No. She just asked me did I remember anything in the house and did I remember anything about a rug, this oriental rug she had, and I told her "No," and she told me to look around and see if I could see anything there I could recognize. That was all she said.

Q. And then did you go upstairs? I think you said you did not go upstairs. A. No, I didn't go up—I didn't go upstairs. I did not see the bedrooms at all.

Q. How long were you there? A. I stayed there until Elinor—Peachie came from the school. I wanted to see [4430] her. I guess I was there until a little after four. Her father went to town and got her.

Q. What time did you get out there? A. I don't know whether I got out there around one or something like that. I just don't know exactly the time.

Q. How many representatives of the FBI went down with you? A. It was two of them—three.

Q. All go in the same car? A. Yes, sir.

Q. And they came back with you? A. Yes, sir.

Q. Did you sign a statement? A. What kind of statement?

Q. Was a statement written out? A. Oh yes. The questions that he asked me. He asked me questions about the Cantwells and all.

Q. When was that? A. He came to the house after that Monday and he asked me those questions, and different questions, where did they live, and when I first worked for them and did they have any company and things like that.

Q. And after you had been out to the Westminster farm he came back— A. And asked more questions about the Cantwells.

Q. When next did you see them? A. Well, I saw them quite a bit.

Q. Well, tell us. A. Oh, well, they came back—

THE COURT: How much longer are you going to [4431] take?

MR. CROSS: I will be about ten or fifteen minutes more.

THE COURT: I think we had better get some air in the room.

(Short Recess.)

BY MR. CROSS:

Q. When the Cantwells left the Eutaw Place in the spring of 1936 where did you go to work? A. Oh, I went to work for the Saxtons, Marlboro Park.

Q. How long did you work there? A. I worked there a couple years or more.

Q. After that where did you work? A. Well, I worked for Dr. Wilkins.

Q. Where was that? A. Well, that was in Baltimore. She was a doctor—

Q. What kind of work was that? A. Well, that was housework.

Q. What was the address? A. I have forgot the address now.

Q. How long did you work there? A. Well, I had worked for her about a couple of years.

Q. What street was it? A. Wolf Street. She lived right across from the hospital.

Q. After that where did you work? A. Well, then I [4432] was home.

Q. I beg your pardon? A. Then I came home because I was—

Q. Sick? A. Yes.

Q. That was 1942? A. Yes. I took sick in 1942, uh huh.

Q. How long were you sick? A. Oh, I was sick off and on. You know I had nerves, you know, something like that, a nervous breakdown from working hard and taking care of a sick aunt.

Q. Beg pardon? A. I was taking care of a sick aunt after work and I got a breakdown like.

Q. How do you fix the date 1942? A. You mean when I was taken sick?

Q. When you had the nervous breakdown.

A. It was around about—I am trying to think. It was around about November or something like that.

Q. 1942? A. Yes. I think it was around about November, something like that. I am not sure.

Q. Were you in bed? A. Well, the doctor was attending me. Sometimes I would be in bed and sometimes I would not. I used to have to work around the house or something like that to keep my mind occupied.

Q. What was your doctor's name? A. Dr. Berkley Butler.

Q. How long did he attend you for your nervous breakdown? A. He attended me over a year. I went [4433] back and forth to him over a year.

Q. How often would you go? A. Sometimes I would go twice a week. If somebody came to the house and upset me and I would get nervous I would go on back.

Q. And that lasted for a year? A. Yes. I was nervous off and on for a year.

Q. After that did you still go to the doctor? A. Well, now and then I would go for a checkup.

Q. When is the last time you went for a checkup? A. I went to the doctor for a cold; I went to him for a cold.

Q. No, for the checkup on account of your nervous condition. A. Oh, it has been a long while; I just don't remember.

Q. Were you at any time in the hospital?

A. No, sir.

Q. Is the doctor still living? A. Oh yes.

Q. Where is his address? A. He lives on Druid Hill Avenue, the 2000 block, Druid Hill Avenue, I just don't know the exact number, but it is the second door from the corner, 2000 block, Druid Hill Avenue.

Q. For how long a period didn't you work; I mean work out? A. I have not worked since 1942.

Q. You have not worked since then? A. No, I have been home.

[4434] Q. I think you said that the doctor told you in 1942 not to read the papers? A. He told me not to read or to do anything that would upset me.

Q. And you have followed the doctor's advice? A. Yes, sir.

Q. He told you not to read a newspaper? A. He told me not to read anything that would upset me.

Q. Well, have you read newspapers since 1942? A. I don't know. I don't remember, because that was 1942, I don't think I was reading anything.

Q. Beg your pardon? A. I don't guess I was reading anything in 1942.

Q. You, of course, can read, Mrs. Murray? A. Yes, I can read a little.

Q. I mean, you can read the paper, and you have read the papers a good deal, haven't you?

A. Yes, I used to read the papers, yes.

Q. What papers would you read? A. We used to get the American paper and sometimes the Sun; we would get two papers on Sundays. Of course, on Sundays, sometimes I am so busy on Sunday working and doing at home, when I look at a paper I will just glance at the funnies.

Q. But on Sunday you got two? A. Yes, we would get the American and the Sun.

Q. That is the Baltimore Sun? A. Yes, and the [4435] Baltimore American.

Q. The Baltimore American? A. Yes.

Q. And that had been true for a great many years before 1942? A. Yes. But I don't bother reading, because every time I read I have to put my glasses on, and I just wouldn't bother about the reading.

Q. You still get two papers? A. Yes.

Q. Every Sunday? A. Yes, and I have not looked at this Sunday's paper.

Q. And during this period from 1942 on you still got these papers? A. Yes, we got the papers. My husband, he likes to read the papers, look at them.

Q. Well, do you get it delivered to your house? A. On Sundays, yes.

Q. Well, weekdays do you get the papers? A. No, sir.

Q. Now, you have not worked at any place since 1942, out? A. No, sir.

Q. Is that on the doctor's orders? A. No. No, sir. The doctor didn't tell me not—to stop working. That was my husband's orders.

Q. You should not do anything— A. To stay home and do my own work.

Q. Now, the doctor's orders weren't to do anything— A. To upset my nerves.

Q. And it is that— A. He said anything I want to [4436] do, I feel like doing. If I didn't, not to worry about it. He said the housework, he said if I didn't feel like doing my housework, not to worry about not doing it, just let it go.

Q. You have not read any papers since 1942? A. Just look at the funnies now and then.

Q. Perhaps I misunderstood. I thought you said the doctor told you not to read anything, but the funnies wouldn't disturb you? A. No, now and then I would read the funnies.

MR. CROSS: May I have the picture that you showed her?

(Picture handed to Mr. Cross.)

Q. I show you Government's Exhibit 35. Now, when Mr. Murphy showed you that—

MR. CROSS: Do you want to put on your glasses?

THE WITNESS: I can see better with my glasses on.

Q. Well, when Mr. Murphy asked you about that you put your glasses on and you said she looked like an actress. A. Oh no, that was Mr. Stone—Mr. Johnstone. I said I didn't see a face, I just saw the side of a face, and I said this looks like someone I have seen, I said to myself, maybe it was in the movies. I just saw the side of the face.

[4437] Q. No, but what did you say about an actress? A. I just say she looks something like an actress, I said I thought maybe I saw her in the movies.

Q. That is what you said to Mr. Johnstone the first time you saw her? A. I said that to myself about looking like in the movies. I told Mr. Johnstone it looked like I seen her, then I really looked at her, and I said it looks like I saw her in the movies.

Q. Did you tell Mr. Johnstone that? A. No, I didn't say anything about the movies to him.

Q. But the first thing that come to your mind when you saw that picture which you thought you recognized because you had seen it somewhere in the movies—

A. No, when I first saw the picture I said it looks like somebody I seen in the movies. I knew I had seen the woman but I just couldn't recall where I had seen her. I just saw the side of the face.

Q. When was it that the picture was first shown you? A. In November.

Q. Perhaps I didn't make it clear. Was it on the first visit? A. Yes.

Q. That is the first time the FBI man came, he showed you this picture? A. Yes.

[4438] Q. And asked you if you recognized it? A. Yes.

Q. And you thought to yourself, it looks like someone you knew or thought you had seen her in the movies? A. Yes. You see, I didn't have the view like that (indicating) of her.

MR. MURPHY: It wasn't that picture?

THE WITNESS: I saw a side view I think.

MR. MURPHY: Oh, well.

MR. CROSS: Do you want to examine?

Now, I will ask you to produce, Mr. Murphy, the picture that was shown to the witness.

MR. MURPHY: I haven't got any pictures, Mr. Cross.

Q. Could you tell us what the picture looked like that was shown to you? A. Well, it looks like her, only she had a side view, like.

Q. Well, how big a picture was it? A. Just probably the size of this (indicating), maybe.

Q. Did she have a hat on? Did she have a hat on?

A. I don't remember.

Q. You don't remember whether she had a hat on?

A. I don't remember whether she had a hat on or not.

Q. What kind of dress did she have on in the picture that you saw? A. Well, I don't remember that. I think it was a half-way picture. It wasn't all the way. [4439] It was more this (indicating) type of picture.

Q. You can't remember whether she had a hat on?

A. No, I don't.

Q. Or the kind of dress she had on? A. No. I just glanced at it.

Q. Can you tell his Honor and the jury anything about the picture that was shown you by the FBI the first time they called? A. Well, I noticed her nose.

Q. Was it a newspaper picture? A. No, it was a type like this (indicating), that Mr. Johnstone—Mr. Metzell showed me, was something on the order of this (indicating).

Q. About that size? A. I think so, yes.

Q. Now tell us again just what he said to you. A. He asked me did—could I recognize this woman. So I looked at the picture and I said it looks like somebody I know, and I thought in my own mind maybe I seen it in the movies, because I didn't know what it was all about. I thought—

Q. Well, before you knew what it was all about, you thought it was someone you had seen in the movies, didn't you? A. I thought maybe it was.

Q. How often do you go to the movies? A. Sometimes once a week.

Q. How long have you been going to the movies once a week? A. You say how long? Oh, I have been going to the movies—

[4440] Q. Well, over several years? A. Oh yes.

Q. Certainly since you had your nervous breakdown?

A. Yes, I just go once a week, and again maybe I won't go at all.

Q. After you thought that you recognized her you

told Mr. Johnstone that you thought that you did recognize her?

A. Yes. I said it looks like I have seen her, but I couldn't—

Q. At that time you didn't know what the case was about?

A. No, I didn't know anything.

Q. And at that time you had said to yourself, "Well, I think I have seen her in the movies somewhere"? A. That is—maybe I saw her in the movies—I didn't know—I say to myself. And he asked me if I had seen her face to face would I be able to recognize her, and I told him I don't know, I wouldn't know.

Q. You wouldn't know if you saw her—A. No, I said I wasn't sure whether I could recognize her or not, if I did see her in person, see.

Q. Well, now, did you ever tell Mr. Johnstone that you thought that you recognized her as having seen her in the movies? A. No, sir.

Q. You used the word "actress," she looked like an actress I think in your direct examination. Do you recall that? A. I might have said that.

Q. Well, you meant by that, in the movies? A. Yes.

Q. Can you kind of think of the name of the movie actress that you thought she looked like? A. No, I can't.

Q. Well, did you at the time? A. No, I didn't. I know I had seen her some place but I just couldn't recall, and I said maybe I saw her in the movies.

Q. Well, is this still to yourself? A. Yes, sir. I might have said that; I don't know, I just can't remember, because it was so quick, everything was so quick and all, and everything so sudden. He come in there and asked me questions and things.

Q. You mean as quick as showing you the picture?

A. He came in there, showed me the picture, asked me did I know the woman and all.

Q. How soon after he got there did he show you this picture? A. Well, he showed it to me right away that Sunday night.

Q. Well, had he said anything before he— A.

Hadn't said a word. He just asked me could I recognize this woman and this man, and I looked at it.

Q. That is, without saying a single word, when he came in he showed— A. He didn't say anything. He said, "I am not going to tell you anything," he says.

Q. Where did this take place? A. At my house.

Q. Well, did he come in the living room? A. Yes.

[4442] Q. Did he sit down? A. No, he came in, and then he showed me a little picture of myself, and then he asked me did I recognize her, and I told him yes. And then he showed me the other two pictures, and then he said—right away I thought maybe that Mrs. Cantwell was looking for me to work for her, and—

Q. Let us stick to Mrs. Hiss's picture. A. Yes. And then he said he would see me Monday.

Q. When he came in the first time, on Sunday, did he tell you that he was from the FBI? A. No, he told me that he was working for Mr. Cantwell. He didn't tell me anything. He just told me—first I thought maybe he was a detective.

Q. No. Just what he told you. A. After he showed me the pictures—

Q. No. What did he tell you as to who he was?

A. He said he was working for Mr. Cantwell. He didn't tell me he was no FBI until the next day.

Q. Well, after that, do I understand that without saying anything he showed you the picture of Mrs. Hiss? A. That is right.

Q. And that is the first thing he did? A. No, the first thing he showed me was my picture.

Q. When he showed you your picture, what did he say?

A. He said, "Do you recognize this?" Or "Do you know [4443] this?" And I said, "Oh yes, that's me."

Q. Just what? A. I told him, yes, that was me, when he showed me my picture. I knowed it right away, because I sat for it.

Q. That had been painted by Mrs.— A. It was—she paint me. It was a large picture she paint of me, so

that I thought he had probably, he painted that small one himself because it was just like the large one.

Q. You said right away that was you? A. Yes.

Q. Now, what was the next thing? A. Sir?

Q. Now, what was the next thing that was said? A. And then he asked me—he pull out Mrs. Hiss's picture and asked me did I recognize those, too.

Q. He didn't say a word when he did that? A. No. He just say, "Do you recognize this lady and this gentleman?" And I said it looked like I had seen her before. And I looked at Mr. Hiss's picture and I said—it looked like I had seen him, but I wasn't sure, I told him I wasn't sure.

Q. Well, were both pictures on one, were the two pictures together? A. I think they were separate. They were separate. They wasn't together. They were separate.

Q. You are sure of that? A. Yes. He showed me Mrs. Hiss—

Q. Which did he show you first? A. He showed me the [4444] lady first.

Q. Had he told you that he was working for Mr. Cantwell before he came in? A. No, after he got in there, then he said he was working for Mr. Cantwell, after he showed me the pictures and all, because I was asking him questions about Mr. Cantwell.

Q. Well, who did he tell you he was before you invited him in? A. Oh, he said that—he asked me my name and all, and I told him to come in, and right away he pulled out this picture, and I recognized it. Then he—he said he wasn't going to tell me anything, and all he told me, he says, "I am working for Mr. Cantwell, that is all I can tell you." And that is all he told me.

Q. Then he pulled out Mrs. Chambers' picture first?

A. Mrs.—this picture here (indicating).

Q. Now, didn't you tell him that you thought you recognized it because you thought you had seen her in the movies? A. Yes, I said that it looks like I have seen her before.

Q. Well, didn't you tell him— A. I don't know

whether he heard me or not, but I did say to myself that she looked like I seen her in the movies.

Q. And he may have heard you say that to yourself?

A. He might have.

Q. And you may have said that to him? A. I said it, [4445] and I might have said it out loud, but I don't know. I might have just said it, and he was just standing beside me and looking at the pictures.

Q. What else did you say about it? A. What is it?

Q. What else did you say about the pictures? A. Well, I told him, I said, "Well, I am not sure whether I could recognize her or not, well, this same woman or not." So he said, "If you saw her in person would you think that you could recognize her?"

I said, "Well, I don't know, I am not sure."

Q. You still thought that it was someone you had seen in the movies? A. After I saw her in person?

Q. No. You still thought at that first visit that you had seen her in the movies? A. I thought maybe I had seen her in the movies. I know I had seen her but I didn't know where at that time.

Q. Well, you thought it was in the movies?

MR. MURPHY: Your Honor, I think we have covered this quite sufficiently. May I ask that we go on to some other subject?

MR. CROSS: I submit, your Honor, that I want to be sure before I go on.

Q. You thought you had seen her in the movies?

A. I thought maybe I had seen her in the movies, maybe. I wasn't sure of that either, but I know I had seen her [4446] some place.

Q. Well, you thought to yourself you had seen her in the movies? You so testified?

MR. MURPHY: Your Honor, I submit Mr. Cross is not quoting what the witness says and we have amply covered this, and that we go on to some other subject.

THE COURT: On cross-examination I am not inclined to limit you, but it seems to me you have covered it several times. I do not limit you. Go ahead.

Q. What was the next thing that Mr. Johnstone did?

A. Well, they showed me the Cantwells' pictures and all the Chambers' pictures.

Q. As you told us, he showed you Mr. Hiss's picture?

A. Oh yes, he showed me his picture.

Q. What kind of picture was that? A. Well, it was something like this (indicating exhibit before witness).

Q. When you say "something like this," you mean the one that is in front of you and that is Government's Exhibit 35? A. It was a small picture.

Q. No one else in the picture but himself? A. That is all. To tell the truth, I did not even pay much attention to the picture because I didn't know what it was all about and he didn't tell me anything.

Q. I know that, but will you describe for us the picture he showed you of Mr. Hiss? A. I think it was a front face, [4447] like this. I think. I am not sure.

Q. Front face? A. I think it was.

Q. Did he have a hat on? A. I don't remember.

Q. Did he have an overcoat on? A. I don't think so. I don't remember.

Q. What did he say when he showed you Mr. Hiss's picture? A. He asked did I recognize this man.

Q. What did you say? A. I told him I did not know.

Q. Is that all that was said about Mr. Hiss's picture?

A. Yes.

Q. And you told his Honor and the jury all that was said about the picture of Mrs. Hiss? A. Yes, sir.

Q. I am now talking about the first visit. Now, then, they showed you some pictures of the Chambers whom you knew as Mr. and Mrs. Cantwell, is that true? A. Yes, sir.

Q. Was that one picture with both of them in it?

A. No. They were separate.

Q. Now, the picture that he showed you of Mr. Chambers, what did he look like? A. Looked just like him, only he was a little older.

Q. I beg pardon? A. It looked just like him only it was a little older.

Q. How big a picture was that? A. That was a small picture.

Q. Would you recognize the picture if I showed it to [4448] you? A. I guess so. I know I would know him.

Q. No. I meant the picture they showed you.

A. I don't know whether I could recognize the same picture or not.

Q. I show you two pictures here and I will ask you whether the FBI ever showed you those two pictures (handing)? A. No. I didn't see those. I didn't see those.

MR. CROSS: I have shown the witness Defendant's Exhibit L, Mr. Chambers' picture, and the baby.

Q. Well, was this a picture that you understood was a fairly recent picture of Mr. Chambers? A. I don't know how recent it was, but it looked like kind of a little older.

Q. We will get one I want to show you in a moment. Then there was one of Mrs. Chambers. What was that like?

A. That was her.

Q. I know, but what kind of picture was it? A. It was a small one, but I didn't see the pictures long.

Q. But what kind of picture was it? A. It was a small picture I think.

Q. Did she have a hat on? A. I don't think so.

Q. What kind of dress did she have on? A. I never noticed.

Q. Was that a recent picture? I mean, did it look [4449] like her when you used to work for her? A. Yes. Looked just like her. She has not changed at all.

Q. Now, have you told his Honor and the jury all the talk that took place at the first meeting? A. All I can remember.

Q. Then they came back the next day, and how many were there—three? A. Yes.

Q. Did they show you any pictures on that occasion?

A. No, sir. I don't think they did.

THE COURT: Would you like a drink of water?

THE WITNESS: Yes, please. My throat is getting dry.

Q. Were any of those pictures newspaper pictures?

A. No, sir.

Q. The next day you were not shown pictures at any time?

A. No. It was just that once. That is why I didn't pay much attention; just that Sunday, that was the only time they showed me pictures.

Q. Then the next time they came after you had gone to the farm, did they show you any pictures? A. No. They just asked me different questions about the Cantwells.

Q. Did the FBI ever at any time, or did anyone ever at any time, ever show you a picture of Mrs. Hiss except on this first occasion when Mr. Johnstone showed it to you?

A. Well, not the FBI never showed it to me only once.

[4450] Q. And that was the first time you saw it? A. Yes, that Sunday.

Q. And that is the time you have already told us about?

A. Yes, that Sunday.

Q. And did you ever thereafter tell them when you first saw the picture you thought it was someone you had seen in the movies? A. What did you say?

Q. Did you ever thereafter tell any FBI man—

A. No. They never mentioned the picture. All he said if I would see him in person would I recognize him and I told him I did not know; I was not any sure of that until I saw him, so I came up here and saw him and I recognized him.

Q. You never thought of Mrs. Hiss as being otherwise than someone you saw in the movies until you came up to New York? A. No. I did not say I saw them in the movies. It looked like someone I might have saw in the movies.

Q. That is as far as you had been able to identify her? A. I know I saw the woman before but I just could

not remember, and I said, maybe to myself, "I saw her in the movies."

Q. But that is as far as you had been able to identify Mrs. Hiss until you came up here on November 17th? A. Yes. That is right.

Q. And you had never seen any other picture? A. No.

[4451] Q. Or been told anything about the case? A. No, I didn't know anything about the case. I really was dumb on that subject.

Q. And you expected when you came up here to see some movie actress, did you? A. No, indeed.

Q. Did you know who you were— A. No, all they wanted to do was bring me up here to see if I could recognize the woman that was in the picture and the man on the picture.

Q. When you first saw them you thought you had seen her in the movies? A. I didn't say I saw her in the movies.

Q. When you first came up here did you expect to see the person you thought you had seen in the movies? A. No. He brought me up here to see if I could recognize the woman. I didn't say I saw her in the movies. I said maybe it was someone I saw in the movies. I didn't say I saw her. I said "Maybe."

Q. You did not know anything about the case?

A. I didn't know anything about it.

Q. Never heard the name Hiss or anything else?

A. No, sir.

Q. Or anything about a trial? A. Never heard anything.

Q. Until you came up here? A. Until I came up here. That is certainly true.

[4452] Q. And you have told us all of the occasions when you ever saw a picture or any mention made of a picture?

A. Yes.

Q. Now I am going to show you this picture and ask you if this is the picture the FBI showed you of Mr. Chambers? A. No, that is not it.

Q. What kind of picture was it? A. It was a small picture.

Q. I mean, was that the same pose? A. I don't know, but he didn't look like this.

Q. Well, what was the difference in the picture that you saw? A. You see, he has got his mouth open here and he looks like he is—I don't know what.

MR. CROSS: I have shown the witness—

THE WITNESS: It was a better looking picture than that.

Q. Better looking picture than this? A. Yes.

MR. CROSS: This is Defendant's Exhibit 4 x A.

Q. Can you describe Mr. Cantwell for us when he left St. Paul Street when they told you they were coming up to New York to live? A. Describe? Well, he is blond and short and stout.

Q. Can you tell us anything more? A. A nice man.

Q. Well, I mean about his looks. A. I thought he was nice-looking.

[4453] Q. Well, was he clean-shaven? A. Yes.

Q. When he left in the spring of— A. 1936.

Q. In 1935 this is. A. He left the spring of 1936.

Q. No, I am talking about when he left St. Paul Street.

A. Oh, St. Paul Street? I don't know whether he was clean-shaven then or not.

Q. You mean to say to his Honor and the jury you don't remember whether you ever saw him with a mustache?

A. That is right.

Q. Well, did you ever see him with a mustache?

A. I just can't remember.

MR. CROSS: That is all.

MR. MURPHY: Thank you very much, Mrs. Murray.

(Witness excused.)

MR. MURPHY: Shall I put on another witness, your Honor?

THE COURT: Are we going to finish with the testimony this afternoon?

MR. MURPHY: Oh yes, your Honor, I will, but I won't finish with this next witness in five minutes.

THE COURT: Will you finish in ten?

MR. MURPHY: I don't think so.

THE COURT: Then I think we had better adjourn now until a quarter past 2.

(Recess to 2:15 p.m.)

[4454] Afternoon Session

(Jury not present.)

THE COURT: Now, may I speak to counsel.

(The following proceedings were had at the Bench):

THE COURT: I am handing back to counsel for the Government and counsel for the defendant the requests to charge, and I have indicated opposite each one of the requests my disposition of them.

Mr. Cross, here is yours (handing). Mr. Murphy, this is yours (handing).

MR. MURPHY: Thank you, Judge.

(Discussion at the Bench between Court and Counsel off the record.)

(Jury enters courtroom.)

GLADYS F. TALLY, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

THE COURT: Now may I ask you to talk so that the lady sitting in the far corner can hear you.

THE WITNESS: I will try to.

THE COURT: Don't be nervous.

Direct Examination by Mr. Murphy:

Q. Mrs. Tally, was there a time when you lived in the Georgetown section of Washington? A. Yes, I did.

Q. Do you remember the address? A. It was 4615 — [4455] 3415 Volta Place.

Q. And did you live there with your mother? A. Yes, my mother and I moved in in September 1935.

Q. And your mother was the owner? A. Yes, she was the owner.

Q. And what was your mother's name? A. Catherine F. Flannigan.

Q. And did there come a time, Mrs. Tally, that you left 3415 Volta Place and went to Philadelphia? A. Yes, we moved to Philadelphia the 1st of November in 1937.

Q. And that was occasioned by the fact that your husband's job was changed? A. Yes, he was called—

Q. Transferred from Washington to Philadelphia?

A. That is right.

Q. Now, when you moved up—was your mother ill at that time? A. No, she was not ill in October, but just after we moved she had a stroke.

Q. Well, there came a time then about that time when you decided to rent the house? A. Yes, we decided to rent the house as soon as my husband and I moved to Philadelphia.

Q. And did you handle all of the arrangements for your mother? A. I had to while she was ill.

Q. Well, did you decorate the house? A. We had it papered just before we moved.

Q. And when you say you had it papered, what rooms did [4456] you have papered? A. We had the living room, dining room, and upper and lower halls.

Q. And do you remember the design or color?

A. I know that the background was a pale gray or off white, and it had sort of a mulberry design in it.

Q. Now, did you ask some real estate people to help rent it for you? A. Yes. We had two real estate men. The second one was Mr. Gilliat, and I don't really recall the first one's name.

Q. You say you don't remember the other man?

A. No, I don't.

Q. Did you put any ads in the newspapers? A. Yes, I did put one ad in to show the house in early December or the end of November,—I have forgotten what date it was,—and I don't recall putting any other ads in, but I

don't remember exactly, because I don't know just when we put it in the hands of a real estate man.

Q. In other words, the one ad you remember specifically—

A. Was a Sunday that I had the house opened to show.

Q. Let me see if I understand it. During October you were still in Georgetown? A. We were living in the house until the end of October.

Q. Well, I have here as part of the Government's exhibit a number of advertisements all dated in Washington papers during October referring to a Georgetown house, with [4457] the telephone number West 1617J. Was that your telephone number? A. Yes, that was.

Q. And do you say that you cannot remember one way or the other whether you put those ads in or not? A. No; I may have, you see, early in October, but I don't recall that. I only remember the one on that particular Sunday because I was responsible for that, and did show the house that day. It was empty then, of course.

Q. Well, this one of the group of advertisements that I have is an ad that appeared in the Washington Post on Sunday, December 5th, reading: "Georgetown, 3415 Volta Place, Northwest. Remodeled six-room house with attic, automatic heat, insulated, walled garden, terrace, sun deck, two stairways, open fireplaces, large living room. Open for inspection Sunday from 10:00 a.m. to 6:00 p.m." Is that the ad? A. Yes, that is the one that I put in.

Q. Had you come down from Philadelphia? A. Yes, I had been down since Thanksgiving I believe, stayed on.

Q. And you put this ad in yourself? A. Yes, I did.

Q. And that was Sunday, December 5th. Did you have any callers that day? A. Oh yes, a great many in the afternoon.

Q. And do you know whether Mr. and Mrs. Hiss was one of those callers? A. No, I don't recall that at all.

Q. Well, had you made some sort of arrangement with any [4458] of the callers at all? A. Yes, there were

two separate parties who were interested; one we really had accepted a deposit and then decided they would not be desirable; and the other couple I had asked Mr. Gilliat to give me a couple of days to see if they could take the house. Well, they couldn't. And in the meantime he had told me that he did have a client for the house.

Q. So after December 5th Mr. Gilliat said that he did have a client? A. Yes, it was just a few days after December 5th I would say.

Q. And did he tell you who that client was?

A. I think he mentioned the name, yes, but I couldn't be sure of that.

Q. Well, in any event, did you shortly thereafter visit Mrs. Hiss? A. Yes, I did.

Q. Do you remember where she was then living? A. I don't remember the street, no. I know that I went there directly I think from Mr. Gilliat's office.

Q. Was it in the Georgetown section? A. Oh yes. It was close by.

Q. And did you discuss with Mrs. Hiss the rent or other things? A. No. I only went to introduce myself, and I wanted to meet who was coming in. I believe she asked me one or two questions; as I remember, one was if there was a washing machine, or maybe I volunteered the fact that there was, in the basement; I don't remember. And I think she asked me about built-in bookshelves. Those are really the [4459] only two things I recall.

Q. Did your mother subsequently sign a lease as landlord? A. Apparently. I do not recall that part of it, whether Mr. Gilliat went out—she was in a nursing home at that time.

Q. Your mother? A. Yes, and I don't recall how that was managed; whether he took something out for her to sign. I don't know.

Q. But there is testimony here that on December 8th there was a check for $100. Was that the rent? A. Yes, I believe that was up to a certain period.

Q. Were you there on December 5th? A. Oh yes.

Q. When these people came did the house have any

furniture in it at all? A. Oh no. It was empty. All our furniture had been moved out.

Q. Was there other people's furniture there? A. Oh no. It was completely empty.

Q. And any shelves been added at that time? A. No. There were no shelves there then.

Q. Now you said in the ad that it was a walled garden terrace. What do you mean by terrace?

A. Well, there should have been a comma there. There was a wall around the small garden and there was a little terrace.

Q. What kind of terrace? A. Just a small brick [4460] terrace off the living room and it had an uncovered deck above it and a little extension beyond it after you went into the garden proper.

Q. There was a brick terrace there? A. Yes. There was a brick floor and it was flat stone.

Q. Any forsythias? A. Yes. We had planted forsythia against the wall of the adjoining house.

Q. But on your property? A. On our property, yes.

Q. And did you leave any drapes there? A. Yes. We left the drapes in the living room because there were no blinds for the windows. We used those as blinds.

Q. What kind of drapes were they? A. Well, they were casement cloth which had been dyed sort of plum color and later on I believe the color was removed.

Q. Did you come back to visit the house?

A. Yes. I had been back a couple of times on business.

Q. Well, do you remember the kind of material in the living room when you came back? A. What do you mean?

Q. The drapes. A. It was the same, a curtain material and the dye had been removed.

Q. How about the dining room? A. The dining room we left no curtains in that, just shades on the windows.

Q. What was there when you came back?

A. As I recall some chintz drapes, I would say, but I don't recall that too well.

[4461] Q. I am going to show you some pictures—I will show you this large picture which actually is two pictures. Do you remember when that was taken? I see two ladies sitting on the floor. A. Yes. That was that Sunday. It was a very cold Sunday. Yes, that was the Sunday we showed the house and that was Mrs. Shepard and myself and a dog that belonged to a friend.

Q. Who took the pictures? A. I think Mr. Shepard. Yes, I remember.

Q. And I see you ladies sitting on the floor. Were there no chairs? A. Oh no, there was nothing in the house.

Q. On the back there is a legend on each one, is that a correct description of each picture? A. Oh yes.

MR. MURPHY: All right. I offer those pictures.

MR. CROSS: No objection.

(Marked Government's Exhibit 74.)

MR. MURPHY: Ladies and gentlemen, there are two pictures of the two ladies; on the lower one they are each sitting on the floor and the other you can see only part of the one lady (handing to jury).

Q. And you say that was taken of yourself and Mrs. Shepard on December 5th in your house at Volta Place? A. That is right.

Q. Was that the new wallpaper that you had put in? A. Yes, that is it.

[4462] Q. Now I show you two groups of pictures pinned together by a little staple and ask you whether those are a number of pictures, each representing various views of the house, 3415 Volta Place? A. These first two were taken just on moving day, as you can see. As you see this is the first weekend when we had some guests from New York and also Mrs. Shepard was there and my mother, myself and my dog, and then some friends one Sunday morning for breakfast.

Q. Was that the condition of the house as these pictures represented at the time you rented it to the Hisses?

A. Oh no. This is when we just moved in before any planting had been done.

Q. I mean of the house itself. A. Oh yes, it is the house, yes.

Q. Was the condition of the house the same; in other words, was that stone terrace there and the condition of the doors and windows the same? A. Yes. There had been no change in the house itself, except that I believe in these first pictures it does not show the flagstone that had been laid at the back and probably a little pathway that had been put in.

Q. Do some have the flagstone? Here I notice on the second picture some stones in front of the door.

A. Yes, but this (indicating) back in here is earth, [4463] as you can see and we had a flagstone terrace put in there.

Q. The flagstone terrace alongside of the house the third picture shows, and some of the brick flooring.

A. That is what was there, and then back here (indicating) was earth and this little wall protected that lawn (indicating) and back in here we had flagstone laid (indicating). I think we had more of that walk put in.

Q. And does that represent the garden wall there? A. This is the front of the house as you enter and this is the view taken from the back looking toward the street (indicating) and this is the front again as you enter.

MR. MURPHY: I offer that as Government's Exhibits 75-A and B.

MR. CROSS: No objection.

Q. And the legend on the back describes what each picture is? A. I did not even notice the legend. I suppose it does.

Q. (Handing.) A. Yes.

(Marked Government's Exhibits 75-A and 75-B.)
(Exhibits handed to jury.)

Q. Mrs. Tally, were you interviewed last summer in connection with the Volta Place house and the renting of it to the Hisses? A. Last summer—in September we were.

[4464] Q. Well, during the first trial—the first trial started on May 31. A. Yes, I had a call in St. Louis by someone, and I don't remember the name, who asked something about the wallpaper, if I remembered the man who did the wallpapering. I did not, but I said I thought I would recall the name if it were mentioned. So he mentioned Mr. Harrington and, of course, that was the man who did the wallpapering. I remembered perfectly after he mentioned the name.

Q. Do you know who that man was? A. No, I really don't remember.

Q. Do you know whether it was a man who represented himself from the Government or not from the Government? A. I am not sure that he said.

Q. Well, in any event, you were not subpoenaed at the last trial, were you? A. Oh no.

Q. And you have been subpoenaed here by the Government? A. That is right.

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. Mrs. Tally, you said you had been interviewed some time in September? A. This past September, yes.

Q. Where was that? A. In Washington.

Q. Where are you living now, Mrs. Tally? A. We are in St. Louis now. We were in Washington for [4465] just a day or two and we were interviewed by the FBI.

Q. Well, where were you interviewed? A. At the Willard Hotel.

Q. Well, had any one been in touch with you before you went to Washington? A. Yes, we had had several interviews in St. Louis, and we were down on our vacation, and we learned when we came back to Washington, my husband went to his company's office, and they said they had been looking for us. So he called a friend in the FBI and let them know where we were.

Q. Well, had they been in touch with you before? A. Yes. In St. Louis.

Q. How? A. They came to the apartment.

Q. Well, they had seen you in St. Louis before? A. Yes.

Q. How many times? A. Oh, I would say two times; two or three times.

Q. When first? A. Well, I am not sure that I know when first. It was during the—I frankly don't know the first time.

Q. Well, at any rate, you and Mr. Tally came to Washington? A. We stopped through Washington—we stopped by in Washington on our way from St. Louis. We were motoring from North Carolina.

Q. And you were asked—or had you been asked to get [4466] in touch with the FBI? A. We learned that the FBI had been trying to track us down.

Q. You mean while you were on your trip? A. Yes.

Q. But they had been out to see you several times? A. Yes.

Q. And that was before? A. Before when—oh yes.

Q. Before you were in Washington? A. Yes.

Q. As I understand it, you moved out the first of November 1937? A. Yes. We were out of the house the end of October in 1937.

Q. End of October 1937? A. Yes.

Q. Did you move all of your furniture out? A. All of our furniture.

Q. So that the house was vacant from then until it was leased? A. Yes. I don't remember whether we had left something in the attic or not. That I am not positive about, but the house itself was.

Q. And had you then moved to Philadelphia? A. We moved to Philadephia the 1st of November, yes.

Q. Did you put it in the hands of real estate brokers? A. Yes, I did.

Q. About when? A. Well, it was in October, I would say in the early part of October, I don't know how early.

MR. CROSS: May I have those exhibits, Mr. [4467] Murphy?

(Exhibits handed to Mr. Cross.)

Q. Now, one of the agents was Mr. Gilliat? A. That is right.

Q. And you can't remember the other one? A. No, I don't recall.

Q. There are certain ads that were put in this morning; October 17, 1937, in the Washington Sunday Star; one in the Washington Star, October 26; one in the Washington Star, October 27, and one October 28, Washington Star. Did you have anything to do with putting those ads in? A. I don't believe so.

Q. They were put in by— A. I don't recall putting in any except that one particular ad. I might have, but I don't recall.

Q. Did you give the keys to the agents, the two agents when you moved to Philadelphia? A. Well, only one agent, Mr. Gilliat, because he was the only one who really did anything about renting the house. The other one did not produce anyone.

Q. You left the key with him when you left? A. I suppose so.

Q. And you were in Philadelphia from early November 1937 until around Thanksgiving? A. Well, my husband was but I was back in Washington a good deal of November [4468] because my mother was taken ill shortly after I left, just a few days after I left, you see.

Q. Was she in the hospital? A. No, she was at home.

Q. Where were you living then? A. I was living in an apartment on 20th Street, I believe it was.

MR. CROSS: Now may I have Government's Exhibit 69.

(Exhibit handed to Mr. Cross.)

Q. When you listed it with Mr. Gilliat did you state what rent you wanted? A. Yes.

Q. Do you recall what it was? A. Well, as I remembered it, I thought we first asked for $110, and when it was rented I believe we accepted a hundred until a certain date, which I think was the following September. But

I had nothing to do with the checks, and so I don't remember.

Q. I show you Government's Exhibit 69 and I will ask you, Mrs. Tally, if that is your mother's signature (indicating)? A. Oh yes, that is.

Q. Were you with her when that was signed?

A. I don't remember. I just simply cannot recall that.

Q. Did you ever see the lease? A. I don't remember seeing the lease but I might have.

Q. You simply haven't any memory about it one way or the other? A. No. I think I tried to recall but I [4469] simply can't.

Q. And you don't know— A. I remember going to Mr. Gilliat's office when it was all settled, but I don't remember the details about when it was signed or how it was signed.

Q. And you don't know when either Mr. Hiss signed or Mr. Gilliat—was Gilliat & Company, Agents, the name of the agency? A. Oh yes.

Q. And you don't know anything about when that was signed? A. No, I just don't remember.

Q. Or when Mr. Hiss signed it? A. No.

Q. Well, did it come to your attention at some time that there had been a lease signed? A. Oh yes. I knew. I suppose that week it was finished, because I went back to Philadelphia as soon as things were settled. After all, that was why I was in Washington.

Q. But you don't recall anything about your mother signing it? A. No, I can't remember that. You see, my mother was in a nursing home and I was in her apartment; I remember going to Mr. Gilliat's office. I don't remember whether he went out to the nursing home, whether I took it out. I really don't remember. I should.

Q. Or whether it had been signed beforehand? A. Or whether what?

Q. It had been signed by your mother beforehand?

[4470] A. I don't think it had been signed beforehand.

Q. I mean, did you have any talk with your mother about having signed it? A. Well, I don't remember how much talk. I just don't remember the details of that particular thing.

Q. Now I want to show you some pictures of the Volta Place house. I show you Government's Exhibit CC, Mrs. Tally, and I will ask you specifically whether this grill was there when you moved out? A. Oh no. No, this is new. There was a tree here (indicating).

Q. There was a tree out there, wasn't there?

A. There was a tree and a bush, and there were no windows here. This has all been done—

Q. Will you hold it up so that the jury can see a little bit? Now will you indicate on this where the tree was? A. The tree was right here (indicating), the tall tree. Then there was a bush close to the doorway. Then there was some ivy, I believe, around the door. That was after—

Q. Have you been back since that addition was made? A. Yes, I have driven by. I have not been in.

Q. Let me ask you specifically about this Exhibit 4-D. You notice a cement— A. That is new.

Q. —a cement top to a room that has been built in? A. Yes.

[4471] Q. Now in Exhibit CC there are two windows in the brick wall there. Were they there when you moved out? A. Oh no. This was done by the new owners after we sold it in 1943.

Q. Would it accord with your memory that it was as late as 1945 or 1946, or do you know? A. I—I really don't know, no.

Q. Now I will show you Government's Exhibit CC-2. Is that a picture of a part of the Volta Place house? A. Yes, that is the west wall.

Q. Towards what? A. Toward the Bureau—35th Street I think it was then.

Q. What is the name? A. The Volta Bureau.

Q. The Volta Bureau. Is there a vacant lot there? A. Yes.

Q. Between the house, the 3415 Volta Place house and the, you say, Institute— A. Yes, it is the Volta Institute

for the Deaf, Deaf Institute. And there was a lot that went from our house to the next street, and that lot belonged to the Volta Institute.

Q. And that vacant lot is higher than the street level? A. Oh yes.

Q. Now the room that you say the curtains were left, was what room? A. It was the living room, which was the back of the house.

[4472] Q. What curtains were they? A. They were the curtains at the windows which you close at night. They were tapestry rod curtains.

Q. Were these cottage windows? A. They were casement, cloth curtains.

Q. Can you locate those on any of the pictures here? Can you look at them on this Defendant's Exhibit C-1—CC-1? A. No, because these are the living room windows right here (indicating), and I can't see—and then the windows were on that west wall over here (indicating). And this doorway (indicating), this (indicating) was a window when we lived here and when we rented it to the Hisses. This doorway (indicating) was put in by the later owners.

Q. Was there a window there? A. There was a window there, yes.

Q. And those are the windows that you refer to where you left the drapes? A. This window, these windows (indicating) and the windows on the west wall. I think there were two.

Q. And then in the dining room there was nothing there? A. The dining room, we only left window shades.

Q. When you subsequently went back there, did they have window curtains or drapes in the dining room?

A. As I recall, they were drapes I thought to the floor, [4473] to the floor.

Q. They extended all the way down to the floor. Do you remember the color of them? A. No, I really don't.

Q. Now on the wall, the brick wall along Volta Place, what color was that when you moved out? A. Do you mean the wall that faced our entrance?

Q. Well— A. The house next door to us?

Q. No. It is this wall here (indicating) where they cut the two windows in for the maid's room and—

A. Oh, that was red brick.

Q. Red brick? A. This was red brick down here (indicating).

Q. Now you are indicating the wall— A. And this was red brick.

Q. The walls where the two windows were cut for the maid's room along Volta Place? A. That is on the street, yes. That was red brick, and this was red brick (indicating), under the house where the basement windows were.

Q. It was never white? A. No.

Q. While you were there at least? A. That is right.

Q. Now this wallpaper that you mentioned, what kind of background did it have? A. It might have been pale gray or off-white, or—

Q. Well, did it have any figures in it? A. The [4474] design was in figures, in a mulberry color.

Q. What were they? A. I don't recall. I only lived with that wallpaper about two weeks, and it was a sort of hectic period, and I don't really know. I would probably recognize it if I saw it, but I couldn't tell you what it was.

MR. CROSS: Thank you.

MR. MURPHY: Thank you, Mrs. Tally.

(Witness excused.)

JOHN FOSTER DULLES, called as a witness on behalf of the Government, in rebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Murphy:

Q. Senator, you are one of the trustees of the Carnegie Endowment, are you not? A. I am.

Q. And how long have you been a trustee? A. Oh, I think about five years; I don't remember exactly.

Q. And you know the defendant Alger Hiss, do you not? A. I do.

Q. Senator, when Mr. Hiss was testifying, on page 2649, on direct examination, relating to his talk with you, he said:

"Q. Did you have some talk at some time with Mr. Dulles about the possibility of going with the Carnegie Endowment? A. Yes, I did.

[4475] "Q. When first? A. On the trip to London for the first meeting of the United Nations General Assembly to which he was a delegate and to which I was the principal adviser of the American Delegation. While we were going abroad on the ship Mr. Dulles first asked me if I would be interested in becoming the president of the Carnegie Endowment."

Do you recall that conversation, Mr. Dulles? A. I don't recall it precisely in that way.

Q. What is your recollection of the conversation? A. My recollection is that I possibly asked Mr. Hiss as to whether he expected to stay on indefinitely in Government service or was thinking of getting out. I don't think I discussed at that time with him the presidency of the Carnegie Endowment, because I was only one of 20 or more trustees, and the trustees did not until their main meeting take up definitely the matter of seeking a president.

Q. Now on 2652 Mr. Hiss was asked on direct examination:

"Q. But I meant— A. Shortly after my election had been announced in the press—I don't know whether it was a week later or ten days later, some time in December after my election had been announced in the press, Mr. Dulles called me on the telephone from New York again.

"Q. Will you give us that conversation? [4476] A. He said to me substantially the following: 'What shall I say in answer to a letter from some man who claims you are a Communist?'

"I replied to him that I thought that subject had been laid to rest. Did he know the background?

"He said that he had discussed the whole matter fully with Justice Byrnes, presumably in New York, but what he wanted to know was what would be an appropriate answer to the individual who had written to him.

"I said that I could only suggest that he ask for any possible basis for such a charge, any possible evidence

or information; that that was what I had been inquiring for when I had heard the charge before.

"Mr. Dulles said he thought that was a good idea, and that concluded the conversation."

Senator, did you have such a conversation, as you recall it? A. No. I had no such conversation certainly at that time or—I received a letter that is referred to there on the morning of January 2nd and I immediately got in touch with the writer of the letter, who came down to see me that afternoon. I am quite—my recollection is quite clear that I did not discuss with Mr. Hiss about the letter until—the contents of the conversation which I then had with the gentleman until some days later on.

Q. Did you talk with Mr. Justice Byrnes about it? A. I had not. I had no discussion at all with Mr. Justice Byrnes about any possible Communist connections of Mr. Hiss.

[4477] Q. Well, did you tell Mr. Hiss who this man who wrote the letter? A. My recollection is that I did not.

Q. Mr. Hiss on his direct testimony at page 2688, in answer to the question that he asked: "A. Shall I describe the conversation?

"Q. Yes. A. On that occasion he told me that the first letter he had received in December 1946 he had replied to along the lines that I had suggested, and had received a reply from the man, whose name he then told me for the first time, a Mr. Kohlburg, who is the publisher of Plain Talk, a magazine;"

You say you did not tell him Mr. Kohlburg's name?

A. I say that I do not recall having told him that.

Q. Did you frame the letter that Mr. Hiss said he suggested to you to frame? A. No. I never wrote a letter to Mr. Kohlburg.

Q. You never did? A. Well, I qualify that. Some months later on I received a further letter from Mr. Kohlburg which I acknowledged, but I did not write Mr. Kohlburg in answer to his first letter to which that testimony refers. I asked Mr. Kohlburg to come to see me, which he did that day.

Q. Nor did you tell Mr. Hiss that you had written, according to the way he suggested? A. No, because I had not [4478] written.

Q. Now there has been some testimony here, Senator, about resignation. Mr. Hiss says on page 2692:

"Q. Go ahead and tell the rest of the talk.

"A. One of the things I said to him was that I was well aware that denials did not always catch up with charges; that sensational charges made in the press sometimes got more publicity and attention than their correction later on; that I was aware, therefore, that the mere charges might tend to impair my usefulness to the Carnegie Endowment; that I thought I would have enough burdens on my own shoulders for the next two or three weeks so I would ask him please to assume one, namely, for him to decide as chairman of the board if at any time he thought my continuing as president would be of any embarrassment to the Endowment and that, of course, from that moment on he had my resignation."

Does that square with your recollection, Senator?

A. No. It does not wholly square with my recollection. This conversation is reported as of the 2nd or 3rd of August, 1948?

Q. Yes, sir. A. I do not recall any discussion about resignation until the meeting that I had with Mr. Hiss at the Hotel Roosevelt just before I went abroad toward the latter part of the month of August.

[4479] Q. And was it you or he who suggested the resignation?

A. At that meeting?

Q. Yes. A. Well, that is a very difficult question for me to answer precisely.

Q. Suppose you tell us what the conversation was.

A. The conversation was designed by me to bring about a situation—

MR. CROSS: Just a moment, Senator. Please tell us the conversation.

Q. If you can recall the conversation. A. Yes, I can recall it substantially.

Q. Can we start off by saying it was an arrangement that you made? You were the one who called for the meeting? A. Yes. I asked Mr. Hiss to come to see me because I was shortly going abroad to the United Nations. He came to see me at the office I was then using at the Hotel Roosevelt. I said to him that naturally what was coming out in the press with reference to the testimony being given before the Committee on Un-American Activities was very disturbing to the trustees of the Carnegie Endowment, and that some of them had communicated with me, but that I was confident that the trustees would not take any initiative in asking for his resignation or in embarrassing him in anyway or seeming to pass a verdict upon him at a time when the matter was being considered [4480] by the Committee on Un-American Activities, and I was quite confident that the trustees would want to lean over backwards to avoid doing anything that might seem to be a prejudicial action or judgment on their part.

I went on to say, however, that I felt that he, as president of the Endowment, had a certain responsibility to consider whether he was able to discharge the duties of the presidency in an organization which depended a great deal upon public goodwill and public confidence, and while the trustees were going to be very scrupulous, I thought, in their conduct toward him, that I thought he might want to consider his own responsibility to the Endowment as president.

At that point Mr. Hiss said that he had been considering the same aspect of the matter and that he had come to the conclusion that he had probably better resign but that it would be questionable whether he ought to resign while the hearings were going on, because that might seem to be some admission on his part, and I quite agreed with him that any action like his resignation ought not take place while the hearings were going on. Mr. Hiss said he thought the hearings would be over in about two weeks and it would be his intention to resign sometime during the month of September, at which time I would be away, but I wanted to clear the matter up before I left. That [4481] is the substance of the conversation.

Q. Do you recall having a conversation with Mr. Hiss in March of 1948 shortly after he testified before the grand jury in this building? A. Yes.

Q. Mr. Hiss has testified on page 2911 as follows along those lines:

"Q. Well, you did not tell Mr. Dulles in words or substance that after you got out of college, law school, you were thrown into association with people who were Communists? A. Not in that form; definitely not.

"Q. If that is the form that Mr. Dulles remembers, you were referring not to that time but to some subsequent time when the charges were made, is that correct?

"A. If that was the form Mr. Dulles remembered I would be quite sure that he had put together two periods of time which I had not put together in talking to him or in my mind."

Now will you tell us, Senator, what your conversation was with Mr. Hiss the day or the day after he testified before the grand jury in March 1948 and came to see you pursuant to your request? A. I told Mr. Hiss of a communication which I had recently received and he mentioned to me the fact that he had just been before the grand jury—

Q. Now, by the way, that is a different communication [4482] than the Kohlburg communication, is that correct?

A. About a year and a half later on. It was a coincidence, as far as I was concerned, that it was the day he testified before the grand jury, and I had not known that he was going to testify, that he told me that he had testified before the grand jury, and I asked him whether anything had come out there which had any bearing upon the subject matter of this communication which had been the primary reason that I had suggested that he see me.

He said that he had been asked before the grand jury of an acquaintanceship with a number of people, and that most of the people whose names had been put to him were people that he was not acquainted with; that the only person that was named that he did have an acquaintance with was a Mr. Pressman, a Lee Pressman, I think the name was, with whom I recall Mr. Hiss said he had been associated, I think, at the Harvard Law School, perhaps on the

Harvard Law Review, and when they came to New York together they had collaborated for about a year, I think, in getting out a little magazine or bulletin dealing with the decisions of the courts in labor cases, which was a subject they were both particularly interested in.

I inquired further then as to the basis, if any, for the communication that I had received; and Mr. Hiss said that outside of the contact with Pressman, [4483] of which he had told me, he had not any contact with any persons whom he knew to be Communists, except perhaps that there were at the time when he was in the Department of Agriculture, there were some persons of rather Leftist tendencies who might be Communists whom he had met in a casual way but with whom he did not have any intimacy other than that which came from their being employed in the same department at the same time.

MR. MURPHY: You may examine.

Cross Examination by Mr. Cross:

Q. Senator, when did you first meet Mr. Hiss?

A. To the best of my recollection I first met him in the early part of 1945 when I was a member of the Delegation to the United Nations Conference at San Francisco, and we were down in Washington for briefing preliminary to going out to that Conference; and, as far as I can recall, that was the first occasion I met him, probably about March 1945.

Q. What were your contacts with him after that?

A. Well, I went on to the San Francisco Conference, and so did he. We went separately, as I recall, although possibly he was in the same plane, I just don't remember; and I saw him with fair frequency at the San Francisco Conference. He was not a member of the United States Delegation, so that he did not regularly attend the [4484] Delegation meetings. He was on the International Secretariat, and as such did not attend distinctively American Delegation meetings, except occasionally, but we had fairly frequent contacts at San Francisco.

Q. After San Francisco when next did you have contact with him? A. That was on the boat going over to

the first meeting of the United Nations Assembly, which was held in London in January—convened in January 1946. I think the boat sailed the latter part of December, as I remember, and we were on the same boat there, and then he was a principal adviser to the Delegation at the London meeting of the United Nations, and I saw him quite frequently in that connection.

Q. Well, was it on this trip that you had the conversation that you have testified to? A. Yes. At least one of the conversations I testified to.

Q. I meant, you spoke about the boat. Was it going to London or coming back? A. As I recall, I was interrogated by Mr. Murphy with reference to a conversation which I think Mr. Hiss indicated he had had with me on the boat going over.

Q. Was that the trip that you testified to?

A. Yes.

Q. Which would be in early 1946? A. I can't remember; I think the boat sailed the latter part of December 1945, [4485] but it was just about the turn of the year.

Q. You had been for some time chairman of the board of trustees of the Carnegie Endowment? A. No, I was not. I was not elected chairman until the same meeting at which Mr. Hiss was elected president. That was in December 1947, I think.

Q. You had been a trustee? A. I had been a trustee for two or three years, yes.

Q. When you spoke to Mr. Hiss about whether or not he had thought about leaving the State Department did you have in mind the possibility of his being considered for the Carnegie Foundation? A. Yes, that was a possibility in the back of my mind.

Q. By the way, Senator, when you left the United States in August—I think you fixed the date somewhere shortly after August 18—where did you go? A. I went first to Amsterdam to a meeting of the World Council of Churches; then I came back for a day or two, and went back again to Paris for the meeting of the United Nations Assembly.

Q. Well, you were over there several months until early January 1949, weren't you, Senator? A. As I recall, I got back the day before Christmas in December—I got back, I think, December 24, 1948.

Q. That was principally representing the United States in connection with UN matters? A. Yes, I was about three [4486] months there in connection with United Nations matters.

Q. Now, did you have some talk with some of the other trustees about your talk with Mr. Hiss going over on the boat shortly thereafter? A. Well now, you are going back now to early 1946?

Q. Yes. A. I had no talks with any of the trustees obviously while I was over there at that meeting because there were not trustees there. After we got back from that United Nations meeting in January-February 1946, I had talks with some of the trustees then, yes.

Q. And you reported to them, did you, about your talk with Mr. Hiss? A. I reported to them that I thought Mr. Hiss might be available, yes.

Q. While no act, or formal action had been taken in connection with your inquiry of Mr. Hiss, would you say whether or not you remembered whether or not the Carnegie Endowment was mentioned? A. In my talk on the boat with Mr. Hiss?

Q. Yes. A. Well, one hesitates to be absolutely categorical about conversations. It took place some time ago. I am quite clear in my own mind that I did not mention the Carnegie Endowment to Mr. Hiss at that time.

Q. When did you first mention it to him? A. I would think it was after I had gotten back and had talked with some of the other trustees; that is probably around April or thereabouts of that year.

[4487] Q. Well, you did speak to him informally before the board of trustees took any formal action by way of appointing a committee, didn't you? A. Did I speak to Mr. Hiss before that time?

Q. Yes. A. Well, I can't remember, but I rather doubt it. I had suggested several names to the—as possible candidates. You see, there was eventually appointed this

committee and there was accumulated before this committee a list of several names of potential candidates. I myself had suggested several names. And I doubt very much that I would have seemed to commit the Endowment in any way to Mr. Hiss.

Q. I don't mean that. A. Yes.

Q. But did you prior to May tell Mr. Hiss that there was some consideration being given to the possibility of him, along with others? A. It is quite possible, yes.

Q. And then you arranged a conference—or did you attend a conference some time along in the spring of 1946, in New York, at which Mr. Hiss was present and I think members of the committee that were appointed? A. Yes, there was a luncheon meeting of two of the three members of the committee on selection of a president, at which Mr. Hiss and I attended. I think that was probably May or June of that year.

Q. 1946? A. 1947, yes.

[4488] Q. 1946, wasn't it, Senator? A. '46, right.

Q. Because he was elected to start his— A. Term; yes.

Q. —his period of service in February 1947. Did you arrange the conference, the luncheon conference?

A. I think so, yes.

Q. I think it has appeared that Mr. John W. Davis, Mr. Arthur Ballantine, Mr. Elliott Wadsworth were the members of that committee? A. That is correct. They were the three members of the committee.

Q. And you gave them such names as you had considered or had in mind that you wanted them to give consideration to?

A. That is correct.

Q. And included among those was Mr. Hiss's name?

A. That is correct.

Q. Then what did you have to do with the investigation of Mr. Hiss's record and availability and suitability for the presidency of the Endowment? A. I had nothing to do with the investigation of Mr. Hiss's record, because that was there—assumed by the—

Q. By the committee? A. By the committee. Of course I made available to the committee such information as I had about Mr. Hiss, and I also—I think your question included as to his availability. After Mr. Hiss became seriously considered, it was I think through me that the [4489] committee obtained its primary information about his availability.

Q. Did you talk with Mr. Dean Acheson about him?

A. I think probably, but I can't say that with certainty.

Q. Did you see the letter or copy of a letter of Mr. Hiss's resignation from the State Department and Mr. Byrnes's acknowledgment, Mr. Justice Byrnes's acknowledgment?

A. No, I have never seen that.

Q. Were you told about its contents? A. No.

Q. Then I think you told us about the talk that you had with Mr. Hiss when you had some letter, or the first letter you had from Mr. Kohlburg? A. No, I had had one or two previous letters that came to me after the public announcement of Mr. Hiss's and my elections, and my recollection is that there was at least one prior letter.

Q. You had two letters from Mr. Kohlburg? A. I had—as I recollect, I had three letters from Mr. Kohlburg.

Q. What was the date of the first one? A. Well, the first letter was dated December 31st, which I received on January 2nd, and which led me, as I testified, to call up Mr. Kohlburg, and he came down to see me that day.

Q. And then shortly after that— A. Then—

Q. Excuse me. A. Some time after that, I think perhaps in February, I had a letter from Mr. Kohlburg, and then a [4490] second letter from him later on, in April or May.

Q. Well, was it shortly after the receipt of the first letter that you talked with Mr. Hiss about it?

A. Well, yes, shortly after my conversation with Mr. Kohlburg, that Mr. Kohlburg's letter itself was rather blind, but when Mr. Kohlburg came to see me that afternoon of January 2nd he told me certain facts which then

led me to call up on the telephone, I think, Mr. Hiss a few days later on. I don't remember the precise date.

Q. Now, when you called Mr. Hiss up, he came down to see you? A. No, I think he was in Washington. That was before he had come over to take up his duties. He was still in the State Department. We talked over the telephone, I think.

Q. Did he come to see you at some time shortly thereafter? A. Well, after he assumed his duties as president of the Endowment, we saw each rather frequently, but we had no conversation that I can recall of a personal character relating to the Kohlburg letter.

Q. Then the next talk you had was when? A. Well, now, as I say—

Q. He had been elected and taken office on February 1, 1947. A. Well, I went—now, we are talking about February 1947, aren't we?

Q. Yes. A. Well, I went to Moscow with Secretary [4491] Marshall for the Council of Foreign Ministers Meeting the latter part of February I think, and I did not get back until May. And I suspect we had several talks about Endowment matters perhaps at that stage, but I don't remember them distinctively.

Q. When was the next talk you remember with Mr. Hiss about this matter of any rumor that he was a Communist?

A. Well, that did not occur until the conversation of March 1948.

Q. That is the time he said he had been down before the grand jury? A. That is right.

Q. Did he, when reference was made to Mr. Lee Pressman, tell you that Mr. Lee Pressman was a Communist? A. I don't recall that he did; I got that impression. But I would not be able to swear that he said so explicitly. I remember he identified him as being on the list of persons that had been—as to which he had been interrogated, but whether he described him as a Communist or not I wouldn't know.

Q. Did he tell you, Senator Dulles, that he had not had any contacts with Mr. Pressman since he had left the

Department of Agriculture, or the AAA? A. I think he told me he hadn't seen him recently.

[4492] Q. When you talked with him in August of 1948 you were then about to be absent from the country for several months? A. That is correct.

Q. And while you were away your duties were carried on by Mr. John W. Davis? A. Yes.

Q. As vice-chairman? A. Yes.

Q. On your return you were, of course, informed about the meeting of the board of trustees of December 13, 1948?

A. Yes.

Q. Now, in February of 1949 you were back, were you?

A. Back in this country?

Q. Yes. A. I think so, yes.

Q. At that time they extended Mr. Hiss's leave of absence with full pay until May of 1949, did they not?

A. That is correct.

Q. And you were a member of the executive committee that so voted? A. Yes.

Q. Prior to the time that Mr. Hiss was elected president of the Carnegie Endowment had you heard people speak of Alger Hiss? A. Yes.

Q. What was his reputation for integrity, loyalty and veracity? A. Well, as far as I knew up to that date you mention his reputation for the things you mention was very high, as far as I knew it.

Q. Did you have any talk with—I think you said you [4493] talked with the three members of the committee from time to time before he was elected? A. Yes, I talked principally with Mr. Davis and Mr. Ballantine. Mr. Wadsworth was not a very active member of the committee and I would not want to indicate how much I talked with him because he was not there very often, because he does not live in New York City.

MR. CROSS: Thank you, Senator.

MR. MURPHY: Thank you, Senator.

(Witness excused.)

MR. MURPHY: Your Honor, I have no more witnesses, but I do want to put in two exhibits, subject to correction and errors. I will ask the clerk to mark them.

MR. CROSS: I have not seen them.

(Handed.)

MR. CROSS: I have not any objection to the marking of these as exhibits, subject to check. There is one exhibit as to which the evidence is in conflict, but the chart that was prepared by us shows it one way and that prepared by Mr. Murphy shows it the other, and of course it is for the jury to say which it is, and I merely mention Exhibit No. 13.

MR. MURPHY: Mr. Toner, will you mark the large one as Government's Exhibit 76.

(Marked Government's Exhibit 76.)

[4494] THE COURT: Mr. Murphy, what are these?

MR. MURPHY: It is a compilation, Judge, of the different underlying State documents, showing the distribution to Mr. Sayre's office and to the Trade Agreements Section.

THE COURT: Charts showing distribution?

MR. MURPHY: Distribution of the underlying State documents which form the basis for the different Baltimore exhibits, 1 to 55.

And the other group—

(Marked Government's Exhibit 77.)

MR. MURPHY: I will explain it to the jury:

Ladies and gentlemen, Government's Exhibit 76 is a compilation showing, in one column here (indicating) the different numbered Baltimore exhibits; on this side the cables and on this side the instruments which are not cables.

Then with regard to each the distribution to Mr. Sayre's office or to the Trade Agreements Section. That is true on this side also (indicating).

The other group, which I will give you and ask you to consider with what Mr. Cross gave to you yesterday, known as Government's Exhibit 77, outlines also the Baltimore exhibit numbers, the State Department documents, the distribution to Mr. Sayre's office, and the last column [4495] the distribution to the Far Eastern Section, showing

either the cross for which there were three or four people testifying, and you have to decide yourselves as to how it was distributed since there has been some conflict in the testimony, and there is a copy for each which I will hold, I think, until you ask for them.

That, your Honor, is the Government's case.

THE COURT: The Government rests, as I understand it?

MR. MURPHY: That is correct.

THE COURT: Mr. Cross, any rebuttal?

MR. CROSS: Yes, your Honor. I have called Mr. Harold Shapero.

THE COURT: I think the room is pretty warm and we might have our recess.

(Short recess.)

[4496] HAROLD SHAPERO, called as a witness on behalf of the defendant, in surrebuttal, being duly sworn, testified as follows:

Direct Examination by Mr. Cross:

Q. Are you a practicing attorney in the City of New York, Mr. Shapero? A. I am.

Q. How long have you been a practicing attorney? A. 22 years this coming November.

Q. What was your background, educational?

A. I attended public school, high school; I attended a pre-law course at NYU, and went to evening law school, Brooklyn Law School.

Then I became associated with Whiteside & Stryker in 1925. Mr. Whiteside became a member of the firm of Chadbourne, Stanchfield & Levy, now Chadbourne, Wallace, Parke & Whiteside in 1926, and I have been associated with Mr. Stryker ever since 1926.

Q. Were you associated with Mr. Stryker when Mr. McLean and my other associates here, Mr. Rosenwald and Mr. Robert Von Mehren were in the preparation of the trial of the first case? A. I was.

Q. For how long a period were you working on the case? A. From January 27, I believe it was, 1949, until July 8 or 9.

Q. In the course of your investigation, Mr. Shapero, [4497] did you meet Mr. Raymond Catlett? A. I did.

Q. At some time did you accompany Mr. Raymond Catlett to see a Mrs. Booth? A. I did, with Mr. McLean.

Q. With Mr. McLean? A. Yes.

Q. Are you able to tell us approximately when that was? A. I would say it was just before Easter of 1949.

Q. Where did you go to see Mrs. Booth? A. I do not know the address. I know where it is. We saw Mrs. Booth in the basement of an apartment house in Washington.

Q. And who were present at that meeting?

A. Mrs. Booth, her two children, one about 8, one about 4, I believe; Mr. McLean, Mike or Raymond Catlett, and myself.

Q. Did you go inside the house? A. We did.

Q. Was there any conversation after you went to the house? A. There was.

Q. Will you tell his Honor and the jury whether or not you and Mr. McLean were introduced by Raymond Catlett to Mrs. Booth? A. We were.

Q. And how were you introduced? A. Mike—Mr. Catlett told Mrs. Booth that Mr. McLean and myself—he referred to me as "Mr. Sapeiro"—were Mr. Hiss's lawyers. Do you want the balance of the conversation?

Q. Was that in your presence? A. It was.

Q. In Mr. McLean's presence? A. It was.

[4498] Q. Will you give us the rest of the conversation? A. Mike told Mrs. Booth that the FBI were looking for a typewriter; that we also were looking for a typewriter; that he was trying to locate the typewriter for Mr. Hiss, for Mr. McLean.

He asked Mrs. Booth whether she remembered the typewriter. She said she remembered a typewriter. He then asked her whether she had any papers which might have been written on that machine done by Ursula, who, I believe, was Pat Catlett's wife—Mrs. Booth and Ursula had gone to school—as Mike put it to Mrs. Booth.

Mrs. Booth then said she had none; that we ought to

try to locate some papers at the high school that Ursula attended.

Then Mr. McLean questioned her about the typewriter, when she first saw it, when she lived with the Catletts, the years she lived with the Catletts, when she first saw it, and again whether she could search her memory, perhaps she might have had some papers, and that was the sum and substance of the conversation.

Q. Did Raymond Catlett in your and Mr. McLean's presence at any time, in any form or words say that he was working for the FBI? A. He did not.

Q. After you came in the house the conversation took place that you have just narrated, is that correct?

[4499] A. That is right.

Q. Were you there more than once? A. Once.

Q. So as to identify the person, were you informed that her husband had recently died? A. That is right.

Q. Now, Mr. Shapero, there was some reference to you, I think, by Dr. Nicholson—she wasn't sure one way or the other I think—whether you ever asked her for any or saw any of her records. Did you have some talk with Dr. Nicholson at some time in the course of preparation for the trial? A. I did.

Q. Where was it you saw her? A. I saw Dr. Nicholson, I believe it is at the Children's Hospital in Washington. She apparently ran a clinic there.

Q. Was that at a place different from her office? A. Yes. I tried to see her at her office but she could not see me, and we located her—she was out of her office, and we located her at the George Washington Clinic, and we then made an appointment for me to see her at 1:30 at this hospital.

Q. And you did see her there? A. I did.

Q. Did you ever see any office records of Dr. Nicholson?

A. I did not.

MR. CROSS: You may inquire.

Cross Examination by Mr. Murphy:

Q. Mr. Shapero, you were working then for the [4500] defendant, were you not? A. I was.

Q. And you don't know who else saw Dr. Nicholson, do you? A. Of my own knowledge?

Q. Well, do you know it from some other way? A. Yes.

Q. Who else saw Dr. Nicholson? A. Mr. John Davis.

Q. John Davis? Was he working for the defendant at that time too? A. He was helping, yes, sir.

Q. And when you saw Dr. Nicholson you saw her at the hospital and she didn't have any records at the hospital? A. That is right.

Q. Now, in connection with your visit to Mrs. Booth, you knew then, as you know now, as an attorney, that anyone who represents himself as a Federal employee when he or she is not is committing a Federal crime, don't you?

A. So I understand.

MR. MURPHY: That is all.

MR. CROSS: Thank you, Mr. Shapero.

(Witness excused.)

MR. CROSS: That is all we have to offer, if your Honor please.

THE COURT: The defendant rests?

MR. CROSS: Yes, your Honor. Subject of course to the matter of seeing your Honor after the jury is excused, under the rules.

[4501] THE COURT: You mean for the purpose of making motions, is that it?

MR. CROSS: Yes, your Honor, which must be made in the absence of the jury by the rule.

THE COURT: Yes, sir.

Then we are finished with the testimony, and this case will be adjourned until Thursday morning. I do that for two reasons: first, that the lawyers may have time to go over the record and prepare their summations; secondly, because I am assigned to sit in a three-judge court involv-

ing the Sherman Antitrust Act tomorrow, and that has been adjourned once because of my engagement here, so it seems to fit in.

And when we meet we will meet Thursday morning at 10 o'clock. I hope this case will be ready to go to the jury Friday afternoon.

So we will adjourn now, ladies and gentlemen, until Thursday morning at 10 o'clock.

(To reporter) You might put on the record that that applies only to the jury, excusing the jury.

(The jury left the courtroom.)

THE COURT: I am ready, Mr. Cross, to hear the defendant's motions.

MR. CROSS: If your Honor please, in behalf of the defendant, I now renew the motions that were made [4502] to your Honor at the close of the Government's case, and so as to identify the motions I refer to pages of the record 1743 through 1760, and incorporate in the motion the argument addressed to your Honor at that time because I do not want to repeat again what we said to your Honor at that time. But in order that the record may be clear, we wish to renew both the motions and urge the argument then presented to your Honor.

THE COURT: Mr. Cross, I thought at the time I denied the previous motions, and still am of the opinion, that this is a case to be decided by a jury, and there is sufficient evidence to go to the jury. Therefore your motion is denied, sir.

And we will now adjourn, unless either of you have some matter to take up with the Court, until Thursday morning at 10 o'clock.

(Adjourned to January 19, 1950, at 10 a. m.)

[4503] New York, January 19, 1950; 10:00 o'clock a. m.

Trial resumed.

THE COURT: Mr. Cross and Mr. Murphy, will you step up to the bench, please.

(The following at the bench, out of the hearing of the jury:)

THE COURT: Mr. Cross, I am returning the additional requests which you presented to me last evening and I have indicated on them my disposition of them.

MR. CROSS: If your Honor pleases, at some appropriate time before the case is submitted to the jury, and I will leave it to your Honor to say when, I should like the opportunity to indicate the defendant's exceptions and the reasons for the exceptions to your Honor's charge to the jury. I understand I have to do that before the case is submitted.

THE COURT: Yes. You will just note your exceptions now if you wish.

MR. CROSS: I will do it at a later time. I would rather wait until after my argument. I understand that can be done at any time before the case is [4504] submitted to the jury and I will do it after your Honor charges.

THE COURT: You mean your exceptions to the additional requests?

MR. CROSS: Yes. I am not quite ready now because I have to state my reasons for my exceptions and I would prefer to do it later.

THE COURT: I don't know that you have to state your reasons. I think your exceptions are enough.

MR. CROSS: Anyway I will do it later, if your Honor please.

THE COURT: Yes, and we will take a recess about half-past eleven.

(The following in the hearing of the jury:)

XXIV.

SUMMATION ON BEHALF OF THE DEFENDANT.

MR. CROSS: May it please the Court, Madam Forelady, Ladies and Gentlemen of the Jury:

I am very happy to say to you that the case approaches its end. As Judge Goddard, who is presiding in this case with such outstanding fairness, and in keeping with the highest traditions of our judiciary, has repeatedly said to you: This is an important case. It is important to the Government and it is equally, if not more important, to the defendant. It is also important because I know that you are going to render [4505] in this case a verdict based upon the evidence without bias, fear or favor, and in so doing, ladies and gentlemen, you are going to uphold our greatest institution, known in our judicial history, namely, trial by jury.

This trial began November 17, 1949, over two months ago, when you were chosen from a panel of jurors and sworn to serve as jurors in this case. Since then you have attended day after day listening attentively and following the evidence at all times, with the obvious desire, to everyone in the court room, certainly to counsel and the Court I am sure, of your obvious desire to hear and follow all the evidence and to weigh it carefully and conscientiously in an attempt to reach and render a fair decision.

All the evidence has now been presented to you. I might say at times that very likely you thought the evidence was going far afield. So have I. But I have noticed that no matter what the evidence has been that has been submitted to this jury, each of you have followed it attentively and with an endeavor to make sure you were getting all the evidence that was presented in the case, both by the Government and by the defense.

Now that all the evidence has been presented in the case we come in the trial to what lawyers call the summation. The procedure with reference to that [4506] is for me, as counsel for the defense, to sum up first. Then Mr. Murphy will sum up in behalf of the prosecution. Following the summation Judge Goddard will then deliver his charge or instruct you as to the law that is applicable in deciding the issue or issues presented in this case to you for your decision.

After Judge Goddard's charge you will then retire to consider, solely on the basis of the evidence presented from the witness stand, and presented in this courtroom alone, what your verdict is to be.

Upon your oaths and from an acquaintance gained, seeing you for some 38 days, I know that your verdict is going to be a just one and that you intend faithfully to discharge your respective oaths of office as jurors.

In behalf of Alger Hiss, myself, and each of my associates who have worked so faithfully, so diligently and so loyally with me in the presentation of this case I want to thank you for the unselfish and patriotic services rendered by you as jurors in this very long and important case, sometimes I know at a sacrifice of some of the jurors' health, and I am glad to know and to start the summation and see the case end with our ranks filled as they were when we began this case.

[4507] In my opinion a summation should be primarily concerned with the discussion and an analysis of the evidence presented in so far as such evidence has any bearing on the factual issues in the case which you are called upon to determine. In a case requiring two months trial such an analysis, of necessity, will require somewhat lengthy discussion of the evidence and in so doing I trust, and I know you will, bear with me.

The stenographic record in this case has run to almost 4500 pages. The number of the Government's exhibits is about 240. The number of the exhibits—I mean,

the number of the Government's exhibits about 240 to 250, and those for the defense are about 120. So that in an attempt here in the time allotted to try to review that evidence, to help you, and that is my purpose in making the summation, in helping you analyze and understand and piecing together the evidence that we did not have an opportunity as we presented it to tell you its relation or correlation to other evidence.

Let me make one other general observation. Under the rule, and this has not anything to do with either Mr. Murphy or myself; these are the rules long established—the prosecution has the opening and the closing. As you remember, Mr. Murphy made the opening, the first opening, and I followed. This of necessity [4508] means that in making this summation I have to cover many points which perhaps Mr. Murphy may not even comment upon, and there may be points that Mr. Murphy may comment upon which I have not covered. In an attempt to cover such points as seem material I may not deal with them all, and I hope you will appreciate this and believe me when I say that if I have not covered some point that is dealt with by Mr. Murphy you should realize that I have no opportunity to reply, and that by not dealing with the point at this time it does not mean that I could not meet the argument upon the evidence presented in the case.

I think that a discussion of the evidence can best be understood if it is set in its proper framework. In other words, let us get back to what the issue or issues are and see just what the applicable principles of law are. The only issues presented in this case are those presented in the indictment. There is and can be no other issue. So I shall begin at the beginning by a discussion of what the indictment is and what issues are raised by the indictment.

This case was begun by an indictment of Alger Hiss returned by the grand jury for this district on December 15, 1948. That indictment has two counts, both charging perjury in answers given to questions [4509] set out in

those counts. A count is simply a charge of a violation of law, and when we speak of two counts it simply means two charges of a violation of law or two charges of perjury.

This indictment raises two ultimate issues of fact which you are to decide, namely, whether Alger Hiss committed perjury when he denied that he had transferred State papers to Mr. Chambers in February or March of 1938 or that he had seen Whittaker Chambers after January 1, 1937.

If you decide upon the evidence and upon the Court's instructions that Alger Hiss did not transfer such documents to Whittaker Chambers and did not see him after January 1, 1937, then you will, and I am sure his Honor will tell you, that you should acquit the defendant on both Count I and Count II.

Now, in order that there may be no misunderstanding of what the charges are I shall now read to you the pertinent parts of the indictment:

"4. That, at the time and place aforesaid, the defendant Alger Hiss, duly appearing as a witness before the said Grand Jurors, and then and there being under oath as aforesaid, and having been duly advised of the nature of the investigation then and there being conducted, testified falsely [4510] before said Grand Jurors with respect to the aforesaid material matter, as follows:

" 'Q. Mr. Hiss, you have probably been asked this question before, but I'd like to ask the question again. At any time did you, or Mrs. Hiss in your presence, turn any documents of the State Department or of any other Government organization, or copies of any documents of the State Department or any other Government organization, over to Whittaker Chambers? A. Never. Excepting, I assume, the title certificate to the Ford.

" 'Q. In order to clarify it, would that be the only exception? A. The only exception.

" 'Juror: To nobody else did you turn over any documents, to any other person?

"'THE WITNESS: And to no other unauthorized person. I certainly could have to other officials.'

"That the aforesaid testimony of the defendant, as he then and there well knew and believed, was untrue in that the defendant, being then and there employed in the Department of State, in or about the months of February and March, 1938, furnished, delivered and transmitted to one Jay David Whittaker Chambers, who was not then and there a person authorized to receive the same, copies of numerous [4511] secret, confidential and restricted documents, writings, notes and other papers, the originals of which had theretofore been removed and abstracted from the possession and custody of the Department of State, in violation of Title 18, United States Code, Section 1621."

Those are the pertinent parts of Count I.

Count II:

"2. That, at the time and place aforesaid, the defendant Alger Hiss, duly appearing as a witness before said Grand Jurors, and then and there being under oath as aforesaid, and having been duly advised of the nature of the investigation then and there being conducted, testified falsely before said Grand Jurors with respect to the aforesaid material matter, as follows:

"'Q. Now, Mr. Hiss, Mr. Chambers says that he obtained typewritten copies of official State documents from you. A. I know he has.

"'Q. Did you ever see Mr. Chambers after you entered into the State Department? A. I do not believe I did. I cannot swear that I did not see him some time, say, in the fall of '36. And I entered the State Department September 1, 1936.

"'Q. Now, you say possibly in the fall of [4512] '36. A. That would be possible.

"'Q. Can you say definitely with reference to the winter of '36. I mean, say, December, '36. A. Yes, I think I can say definitely I did not see him.

"'Q. Can you say definitely that you did not see him after January 1, 1937? A. Yes, I think I can definitely say that.

" 'Mr. Whearty: Understanding, of course, exclusive of House hearings and exclusive of the Grand Jury.

" 'The Witness: Oh, yes.'

"That the aforesaid testimony of the defendant, as he then and there well knew and believed, was untrue in that the defendant did, in fact, see and converse with the said Mr. Chambers in or about the months of February and March, 1938, in violation of Title 18, United States Code, Section 1621."

There has been a great deal of evidence picked out here and there from the minutes of the grand jury and read to you in this trial. Of course, you will recall the strict limitations imposed by law on what part of the minutes the defense may read.

There undoubtedly will be other references to the indictment, but I think I would like for a moment [4513] to analyze and discuss the function of the indictment: I have stated to you the grand jury charges that Alger Hiss committed perjury before it. That is all the grand jury did. That is all it could do. So that this indictment simply means that the members of the grand jury by a vote of at least 12 of its members, or the grand jury on evidence presented solely by the prosecuting officers of the Government voted that there was a prima facie case against Alger Hiss. It means that it voted that there was enough evidence to present a charge to you for trial where the defense can be represented by counsel, present his own testimony and cross-examine witnesses.

Of course, the grand jury did not say any more than that. Indeed, it could not with any justice or fairness have stated anything more.

To illustrate, I shall merely tell you the procedure followed, as I understand it, in the grand jury: By the statute there should be from 16 to 23, as I recall it, grand jurors who sit and hear whatever evidence is presented. I do not know the number of the grand jurors here, but I assume that there was 23. These jurors are not all required to be in attendance every day, and only a certain number are required so that evidence may be presented.

[4514] The only evidence presented is that offered by the prosecuting officer of the Government. In this case Mr. Hiss did not have and would not have been permitted to have counsel present, and so was not given the opportunity to test the credibility of witnesses by cross-examination before the grand jury; nor did Mr. Hiss have the opportunity to present through counsel evidence in support of his innocence at any time before the grand jury, and he was not present himself when any of the other witnesses appeared and testified. The indictment, therefore, was voted by at least 12 of the grand jurors, and has no more standing than I have just indicated. Accordingly, the indictment of Mr. Hiss by the grand jury cannot be considered any evidence whatever of his guilt. This is a universal principle of American law, and I feel that Judge Goddard will so instruct you. Indeed to give any other effect to an indictment would violate the most cherished principles of justice. In America we have never, and I hope we shall never, find people guilty after secret hearing where only one side of the case is presented.

Now there was a first trial of this case, as I told you in my opening statement. The issue or the charge presented by the indictment was presented [4515] to a jury that sat from May 31, 1949 until July 8, 1949, at which time the jury failed to reach a verdict. Thus, ladies and gentlemen, you are the second jury to hear this case and to be called upon to pass upon the issues raised by the indictment.

Now a word as to what I conceive to be some of the legal questions that are raised, and which I think govern the case. Now I cannot speak too strongly on this point. Whatever Judge Goddard tells you is the applicable law in this case you are to take Judge Goddard's instructions, and if by chance I inadvertently state my understanding of the law differently from what Judge Goddard tells you, pay no attention to my statement and take Judge Goddard's instructions. I merely mention certain principles of law that I conceive to be applicable here in the hope that you can understand what the issues are and what you are going to be asked to decide in the case.

Likewise I want to say a word about the evidence. You are the sole judges of what the evidence has been that has been introduced in this case. It is your memory and yours alone as to what evidence has been presented to you, and if in the summation I state the evidence differently from what you remember it, take your memory; not mine. And that applies to any- [4516] thing Mr. Murphy might say to you, and I am sure he will tell you the same thing, and if Judge Goddard mentions any facts I am sure he would tell you that you are the sole judges of the facts and your memory of the evidence is what controls.

Now as to one or two legal principles that are involved in this case: This is not the ordinary criminal prosecution. Why do I say that? It is an indictment for perjury. And perjury has, by its very nature, been for a very long time a crime which must be proved by greater evidence than is required to prove an ordinary crime.

Now let me illustrate: In the case of an ordinary crime the testimony of a single witness, if the jury believes that witness, is enough to justify a conviction. That is not true in the case of a charge or indictment for perjury. For a long, long time our law has been settled that to prove a charge of perjury you must do it in either one of two ways: you must do it by the testimony of two credible witnesses that the jury believes, or by the testimony of one credible witness with corroborating evidence.

Obviously here as to the transmission of State Department documents you only have the testimony of Whittaker Chambers. What is the corroborating [4517] evidence?

As to the second, as to whether or not Mr. Hiss saw Mr. Chambers after January 1, 1937, you there have to have the testimony of two witnesses to the same meeting, two credible witnesses, or you have to have the testimony of one credible witness and corroborating evidence.

And may I say at this point, I shall deal with it in detail later; I will go through the meetings that Mr. Chambers testified to from January 1 on, and every meeting that Mrs. Chambers testified to from January 1, 1937 on,

and they did not testify to the same meeting. There is not a single meeting that both Mr. and Mrs. Chambers testified to subsequent to January 1, 1937. And I will leave it to you that upon the evidence there certainly cannot be two witnesses to the second count.

Likewise I will review the evidence and show, not only is there no corroborating evidence of Chambers' story about transmission of the documents in February and March of 1938, but there is absolutely no corroborating evidence for any of his stories or any of his accounts or any of Mrs. Chambers' accounts of any meeting subsequent to January 1, 1937.

Now what do I mean, and what is meant in the [4518] law by corroborating evidence? His Honor will tell you. But I will tell you what I think it means and what I understand it means: It means that you must have independent, independent evidence, that it is only consistent with the guilt of the defendant. If the evidence be consistent with the innocence of the defendant it cannot be corroborative evidence. So that is the test that you must apply to every bit of evidence that is suggested by the Government as being corroborative evidence. I assert to you, and I will review the evidence and I think can convince you, that there is no corroborative evidence with respect to either count.

The next point I want to mention, which I am sure his Honor will cover, is reasonable doubt. In that respect the trial of a perjury case is just like the trial of an ordinary criminal case. It rests upon the Government to prove the guilt of a defendant beyond a reasonable doubt. The defendant does not have to take the stand, he does not have to offer any evidence, and if the Government does not produce credible evidence that the jury believes beyond a reasonable doubt then the defendant would be acquitted.

But I told you in the beginning that my client has always come forward when he had an opportunity to tell the facts and my client would, as he did at the [4519] first trial, he did at the grand jury, he did at the House Committee—he would take the stand and answer every question asked him.

Now, what do you mean by reasonable doubt? Under our American law every defendant is presumed to be innocent and that presumption continues until his guilt is established by proof beyond a reasonable doubt. Reasonable doubt means any doubt that is based upon reason. That is, a doubt which should it arise with respect to some decision you are required to make in your everyday life, would make you stop or cause you to hesitate and pause before you reach a decision. If your reason and judgment when you come to consider the evidence in this case leave any doubt as to the truth of Mr. Chambers' assertion that Alger Hiss gave him State Department documents in February and March 1938, then I am sure his Honor will tell you you should acquit Alger Hiss. And if your reason and judgment leave any doubt that the evidence offered by the Government fails to support Mr. Chambers' story as to the alleged transmission of the documents or seeing Mr. Hiss after January 1, 1937, then I am sure his Honor will tell you your verdict should be for acquittal.

Let us be more specific. If you do not [4520] believe Mr. Chambers beyond a reasonable doubt then your verdict should be for acquittal. If you as practical women and men would hesitate to make a decision in your everyday affairs on the basis of the information presented in this case from that witness chair by Mr. Chambers, then you should acquit Mr. Hiss. If Mr. Chambers is not believed by you ladies and gentlemen of this jury, the Government has no case. I can't say that too strongly, and I am sure it cannot be successfully challenged. Let me go further and say that even if you find that you can accept beyond a reasonable doubt, which I am sure you will not, the testimony of Mr. Chambers you should acquit Mr. Hiss if you find that the Government's corroborative evidence is not consistent—not inconsistent with the defendant's innocence or that it is only consistent with the defendant's guilt.

Now I want to say briefly here a few words as bearing on the application of the rule of reasonable doubt in this case. Mr. Chambers' credibility or lack of it is one of

the fundamental issues in this case. You have only Mr. Chambers' statement with reference to the transmission of these documents and Mr. Hiss denied that he ever gave them to him. Mr. Chambers has been called by the Government as [4521] its chief witness, its sole witness, to testify with respect to the transmission of those documents. Now you recall Mr. Chambers' testimony on that stand, his appearance, his conduct, his method of answering questions, his reaction or lack of reaction, when time and time again he admitted he either lied before the grand jury or he is lying to you; his reaction when I said, "You either lied in your direct testimony with reference to Baltimore 10 or you are lying now." Those are some of the factors in addition to the evidence presented, and its probability and its improbability and many other facts that will occur to you that you will weigh in deciding in your own mind whether there is any reasonable doubt in your mind about Chambers' story about the transmission of any State documents in February and March 1938.

I want to step out of my chronology here a bit to recall what happened before your very eyes. Mr. Chambers testified that as to the microfilm enlargements, as to the four handwritten memoranda, as to every one of the typed Baltimore documents numbered 5 to 47, were given him by Alger Hiss. Then Mr. Murphy said, "Do you swear before God, before Judge Goddard and this jury, that all of those documents and papers were given you by Alger Hiss?"

[4522] "I do."

I am not attempting to quote directly, but you recall the answer.

I took out Baltimore 10 and laid it on that jury rail in front of Mr. Chambers. I reminded him of his oath that he had taken on direct, and here are the questions and the answers that were asked him.

I said, "Q"—page 747. This is recross examination.

"Q. Mr. Murphy's words were 'before God, Judge Goddard and this jury'; and except for the presence of Judge Goddard and the jury you testified with the same

solemnity before the grand jury, before the person who took your deposition and at the first trial? A. That is right.

"Q. And upon all of those occasions without the slightest qualification you testified that Alger Hiss gave Baltimore Exhibit 10 to you, didn't you? A. That is right.

"Q. As a matter of fact, in your direct testimony to Judge Goddard, or in the presence of Judge Goddard and this jury, you testified with the same solemnity that you gave this morning when you testified that Alger Hiss gave you Exhibit 10, didn't you? A. That is right."

[4523] Now, let me go back and tell you what had just happened in the witness chair. I am reading now from page 635, beginning 635:

"Q. Mr. Chambers,"—and I laid Baltimore 10 on the jury rail—"Mr. Chambers, I show you Government Baltimore Exhibit 10. Where did you get that paper? A. I believe it was given to me by Mr. Hiss.

"Q. Is that as strong as you want to put it? A. It is.

"Q. Are you sure you got that from Mr. Hiss? A. I am not sure."

MR. MURPHY: "that sure".

MR. CROSS: What?

MR. MURPHY: "I am not that sure."

MR. CROSS: "I am not that sure."

Then beginning on page 637:

"Q. And you are not sure whether you got that paper from Alger Hiss? A. No, I am not.

"Q. Well, when Mr. Murphy introduced these papers in evidence they were marked Government Baltimore Exhibits 1 to 47, and you said that you got those from Mr. Hiss, didn't you? A. That is quite correct.

"Q. And you did not qualify it? A. I did not, because, as I looked at it here, it occurred to me that that is the kind of stuff which Harry White was in the [4523a] habit of giving me.

"Q. Now, for the first time you have suggested within five minutes that Harry White might have given you that paper? A. I am sorry. I don't follow you.

"Q. I say, for the first time you have suggested that Harry White may have given you this paper, Exhibit 10, haven't you? A. That is quite correct.

"Q. And Harry White is dead? A. That is also true."

[4524] Now, did Mr. Chambers suddenly realize something about Baltimore 10? He spent months, five days a week except for the time out, with the FBI from the time the grand jury met in December until some time, I think, in March, and then quite some time before the first trial. Was he going over documents? What did he testify to? He testified in one place that the reason he changed the date when he claims he left the Party was when he was going over the documents with the FBI. Did he skip Baltimore 10? It was Whittaker Chambers who claims that he got that Baltimore 10 with other papers out of the envelope in the Brooklyn home of Mr. Levine's mother on November 14, 1948, and turned over to his Baltimore counsel, and was produced and sworn to at that time that he got it from Alger Hiss.

At the first trial he stated it; at the grand jury hearing he swore to it; at the first trial, and in direct. And yet, in a flash, "as I sit here looking at it—That is the sort of thing that I got from Harry White"—another charge made against a dead man who can't defend himself any longer.

Not only that, but in my opening I knew that there was something about Baltimore 10 that could be shown up to be a lie, and in my opening I said:

"Now, why did I mention Exhibit 10? Exhibit 10 [4525] is on Government bond. It has the Government watermark in it, and it was not typed on the Woodstock. It is an MID dispatch that comes from the War Department, and the only office in the State Department where that paper went, as will be shown from documentary evidence, the only office in the State Department was the Far Eastern Division of the State Department. Nothing to

do with Mr. Sayre's office, and nowhere about Mr. Hiss's office. And yet on November 17, 1948, one year ago yesterday, Whittaker Chambers turns up with some papers, and by some oversight, or something, there is a document written on Government bond paper, typed on Government bond paper that went only to the Far Eastern Division of the State Department, not Mr. Sayre's office, not Mr. Hiss's office. And that is the only office in the whole State Department where that document went.

"As to that you will consider whether or not there was not a pipeline to Whittaker Chambers out of the Far Eastern Division, and I am going to tell you why that is important a little bit later."

That is what I told you in my opening, and that was one of the first papers I showed to Mr. Chambers. With that reaction and with that warning, and with months of review with the FBI on these documents, and with swearing four times under oath that he got it from Alger [4526] Hiss, he then says that he thinks he got it from Harry White.

You just wonder when Whittaker Chambers is really going to crack and admit the truth, that he never got any of Baltimore Exhibits 1 to 55 from Alger Hiss; and I shall review the evidence, and I feel confident that I can convince you, as I have, I am sure, about Baltimore 10, that they could not have come from Alger Hiss.

I want to say something about Mr. Chambers' story here as he told it from the witness stand. One of the most glaring incidents of how Mr. Chambers has committed perjury. I want to discuss the point of one of the most glaring incidents of how Mr. Chambers has committed perjury before you for the obvious purpose to try to convict Alger Hiss. His motives for so doing I will discuss later.

Next I want to review the evidence of the Chambers' story that he has asked you by telling you—asked you ladies and gentlemen to believe. The story as shown from the evidence itself is false, is filled with inconsistencies, and is of an incredible nature.

Now, at the very outset it is important to remember that Mr. Chambers' statement is that Alger Hiss engaged with him in the illegal traffic of State Department [4527] documents, and yet it is wholly unsupported by any testimony other than his own. The fact that Whittaker Chambers is the only person produced by the Government in support of this serious charge is significant.

The point I have already made is that from January 1, 1937 on both Mr. and Mrs. Chambers testified about certain meetings, but they never testified about the same meeting, and I am going to take up now and discuss it briefly.

Mr. Chambers testified about visits to the 30th Street house where he claims he received State Department documents or typewritten copies. First he testified to only one visit to the 30th Street house with Mrs. Chambers, and on that visit he said he could not say whether or not he saw Mr. Hiss. He made no mention whatever of the floor-wetting episode or of a New Year's party on December 31, 1936.

Mrs. Chambers testified that both Mr. and Mrs. Hiss were present on both occasions. So it is clear that as to both the floor-wetting episode and the New Year's party Mr. Chambers does not corroborate or support Mrs. Chambers' testimony.

Now I want to mention this alleged visit to New York and Brooklyn when Chambers claims that he introduced [4528] Hiss to Bykov whom he said he knew as Peters; that he never knew his name was Bykov until some time in 1939, quite some time later. But we will call him Bykov even though Chambers said he knew him at the time by the name of Peters.

Where is Bykov? Or Peters? You did not see him take the chair. You heard absolutely no explanation as to why Bykov did not take the stand. He was not called. If he exists he might have claimed his privilege, but not one word of Bykov except out of the mouths of Mr. Chambers and Wadleigh, and Wadleigh called him Sascha, and I will discuss that description later.

I might as well mention it now. You will recall Mr. Wadleigh testified, and Mr. Chambers said he would not deny it, that on one occasion he took Wadleigh out to meet the "boss." Wadleigh describes the man as having one arm, as being able to speak English; that they went to a restaurant. Wadleigh says that he had only one arm. If you went to a restaurant with a person and ate food and he was faking that he had no right arm, you would certainly find it out. Chambers is certain that Peters or Bykov had two arms. He also described Bykov as being either unable or unwilling to speak English. That is about all you know about this mythical mysterious [4529] Peters or Bykov, and I say to you, and I will refer to the conclusive evidence later, that from the contents of the story that Whittaker Chambers told you that such a meeting could not have taken place.

The third thing I want to mention is the Peterboro trip which Chambers says occurred from August 9 to August 11, 1937, and he says he saw the Hisses on August 8th and arranged it. He claims that there was no one present on this visit except himself and Mr. and Mrs. Hiss, and both of them have strenuously denied that any such trip ever took place. Again his testimony is unsupported. It is more than that. It is completely demolished by the evidence presented by the defense in this case which I shall discuss later.

Next, the alleged talk which Mr. Chambers claims that he had with Mr. and Mrs. Hiss in November when they offered to loan him $400. Chambers says that this talk took place a few days before Mr. Chambers purchased his car. The date of the purchase of the car was November 23, 1937. It is interesting that Mr. Chambers does not tell you where the conversation took place.

There are other highlights in his testimony that I shall reserve for discussion later, but I mention again that this alleged meeting that Chambers tells about in November, 1937, I will review the evidence on to show you [4530] that such a transaction never took place; even on Chambers' own story that he was the only one present.

Next Mr. Chambers said that there was a visit from the Hisses around Christmas of 1937 to see the Chambers at the Mount Royal Terrace house, Chambers believed, and I am quoting, it was a Christmas—loosely a Christmas occasion. That is testimony at page 158.

In his Baltimore deposition Chambers did not mention a visit on any Christmas occasion but testified to a New Year's party held at their Mount Royal Terrace home at which the Hisses were present on December 31, 1937. That is the testimony at page 610. Mrs. Chambers in her Baltimore deposition testified she does not remember ever having seen the Hisses at Mount Royal Terrace from the fall of 1937 until April of 1938. At this trial Mrs. Chambers has testified the Hisses celebrated their wedding anniversary, which was December 11, 1937, with both the Chambers at Mount Royal Terrace. It is too clear for argument that a wedding anniversary December 11th, no matter how loosely you use the expression, could not be characterized as a Christmas occasion or a New Year's party. So I say this conclusively shows, and I have reviewed all the instances that Mr. Chambers has testified about having seen Mr. Hiss, other than his allegation that he saw him once every week or every ten days to get papers, [4531] from January 1 on, with the exception, I think, of one other, and that was his story of a visit around Christmas of 1938 to the Volta Place house when he expected to be ambushed and yet stayed for dinner and received a child's toy rolling pin. There has not been the slightest suggestion that there was anyone else present. Mr. and Mrs. Hiss denied that any such meeting ever took place.

Let me review briefly Mrs. Chambers' testimony about visits from January 1, 1937 on. Mrs. Chambers has testified that she did not see Mr. and Mrs. Hiss from the time they left Eutaw Place, which was in the spring of 1936, until they moved to Auchentoroly Terrace, which occurred early in 1937. She claims to have seen Mr. and Mrs. Hiss at Auchentoroly Terrace on several occasions when, as she says, she took her baby for a walk in Druid Hall Park to the zoo. Mr. Chambers, however, testified at

this point at page 158: "I have no distinct recollection of them at Auchentoroly Terrace." And, as I have already shown, Mr. Chambers does not support Mrs. Chambers' story of the two alleged visits to the Hisses at the 30th Street house, namely the New Year's and the floor-wetting episode. I will mention this in more detail in another connection.

Mrs. Chambers' testimony about any visits to [4532] Volta Place were two, one of which she called an informal house warming, and the other occasion when she saw forsythia in bloom, which visit was not mentioned by Mr. Chambers.

You will recall that vivid description of Mrs. Chambers testifying to an event that occurred 11 years ago that she remembered; that they were standing in the hallway and she remembered Mrs. Hiss reaching out her left hand and turning on a light switch. Do you believe that? That anyone on a mere incident that would hardly come to the notice of the person at the moment, would recall 11 years afterwards that Mrs. Hiss reached out with her left hand and turned on an electric switch in the hall?

Now I have reviewed them all, and you will see that they do not testify to the same meetings.

Another question that you will be called upon to consider and pass upon is the relationship between the Hisses and the Chambers, whom they knew as Crosley, and I shall refer to them as Mr. and Mrs. Chambers and not Mr. and Mrs. Crosley unless there is some point in using the name Crosley. That merely has a bearing on the probabilities first, that in February and March 1938 Alger Hiss stole State Department documents and turned them over to Whittaker Chambers, or the probability that from January 1, 1937 and thereafter Mr. Hiss saw Mr. [4533] Chambers. I have reviewed the testimony on that. I shan't speak of it further, but I am going to speak now about the relationship as it bears on those two issues raised by the two counts in the indictment.

Now as to the use of the name George Crosley: Chambers stated in this trial that it is quite possible, and I am

quoting, it is quite possible that he used the name Crosley. Now I want to remind you of two exhibits that were put in here, Defendant's BBB and Defendant's 5 x Z. They are similar in certain respects. Those are the two schedules that were prepared by Mr. and Mrs. Chambers before she testified in the Baltimore deposition. Why do you suppose in advance they were making out a list here of the names under which they resided at a particular place, and the period that they had resided? This is a joint recollection of both of them, and you come down to "28th Street apartment, Washington, D.C., about six weeks, 1935." The name under which they lived? Question mark.

The other one, Defendant's Exhibit 5 x Z, "28th Street, Washington, D.C., about six weeks, 1935." Name? Question mark. They could not even remember what name they used, and yet in this trial Whittaker Chambers tells you about talks that he had with Alger Hiss telling him that he was known as David Breen; that he [4534] had filed an application for a false passport; that he was going to Europe or England under a religious cover on espionage business. That schedule tells what his memory was on November 15th or some date prior to November 16, 1948. Now you see his memory, and about the David Breen part I am going to speak later. This is the first time he ever testified to that, and I will tell you why, and I will deal with that in connection with this application for the false passport.

If they were known as Carl and Lisa why didn't they put it down? Yet they had both of them told you that the only name they were known to the Hisses by was Carl and Lisa. They said, "Of course they did not know us as Chambers."

Now there is some other testimony about the use of the name Crosley that went uncontradicted. I call to your attention the fact that Clidi Catlett testified, Mrs. Catlett stated that two FBI representatives came out to Winchester and brought her to Washington on May 13th, I think, some date in May, about the middle of May—the record will show just what it was, but I think May 13th—

at which time she had a talk with Mr. Murphy; Mr. Murphy here that is prosecuting for the Government. And she was asked by Mr. Murpy about Chambers, as to whether his name was Crosley or Cross or something like that, and she [4535] told him that it was something like that and she thinks she testified to this at the first trial on cross-examination. Mrs. Catlett wasn't even cross-examined. That was the question put to her before the first trial by Mr. Murphy. And you heard her answer.

I want to say something about the early meetings with Chambers or Crosley, and I submit that Mr. Hiss's statement as to what took place is the correct and truthful one. On August 16, 1948, the second day on which Mr. Hiss appeared before the House Committee and before Mr. Chambers had been brought in for identification, Mr. Hiss told of his knowing George Crosley, subletting his apartment to him, and other relations that he had had with this man whom he knew as George Crosley. His testimony here before you, before the grand jury and at the first trial as to these meetings and contacts with Crosley have been consistent throughout. And mind you, this was information volunteered by Mr. Hiss, as was the information with reference to the rug and the Ford car that I shall speak about later. That is sharply to be contrasted with the testimony of Mr. Chambers as to the relationship that had grown up to such proportion by this trial that it is unrecognizable, unrecognizable when compared to his testimony before the House Committee in [4536] August 1948.

Now what is the testimony here from Mr. Hiss? That late in 1934, early 1935, a freelance writer by the name of George Crosley came to him at his office, the Nye Committee office. He said he was writing freelance articles on work that the Nye Committee was investigating, and he wanted to see some of the Committee's exhibits. This was public information. Any number of reporters and other freelance writers called, and where the information was public, it was being printed, it was marked as exhibits, Mr. Hiss made it available to him. Now, he introduced himself as a freelance writer. That was the custom of

Whittaker Chambers and his wife during this time, to call him a freelance writer when they wanted to conceal his real activities.

In his application for an American passport, which he swore to, using the name David Breen, on May 28, 1935, only a few months after he had met Alger Hiss, he described his occupation as literary agent. I call your attention to the testimony of Mr. Nathan Levine, whom I think told you the truth as he knew it, both as to not knowing what was in the envelope when it came and not knowing what was in it when it was opened by Mr. Chambers, when he is out of the room, and as to his knowledge of Mr. Chambers. Mind you, Mr. Nathan Levine is a lawyer, [4537] practicing lawyer of standing in New York City, an intelligent man.

He was living with his mother when his aunt married Whittaker Chambers. He knew him some time before the marriage, which was April—some date in April 1931, and he knew him for years, he knew him socially, he went out to dinner with him, he went to the gym; and for months Whittaker Chambers occupied a hall bedroom in their home.

What did he think he did? He said the only business that he understood he had was a translator of books and something to do with bookkeeping. I asked him, "Did you ever have any talk about his political ideas? Did you ever suspect or have any reason to think he was a Communist?"

"No."

He knew him much better than Alger Hiss did. He knew him as a translator of books and perhaps doing some bookkeeping. Alger Hiss knew him as a freelance writer.

And in the letter that Mrs. Chambers wrote to the Park School to try to get a scholarship for her daughter, which is brim full of concealments as well as misstatements, she said that her husband was a freelance writer, a freelance writer. That letter, ladies and gentlemen, was [4538] dated in October, I think October 4, 1937. I will give you the exhibit number later. But here is Mrs. Chambers when she wanted to dress her husband up, con-

cealed the fact that he was a Russian spy and tried to get a scholarship in a private school for his daughter, said, "My husband is a freelance writer."

Before I pass from the application, this application and its history is of considerable interest. The letter to the Park School is dated, as I remember, October 4, 1937. It is marked Defendant's Exhibit DDD. This is addressed to the scholarship committee, Park School, Baltimore, Maryland.

"Gentlemen: We are the parents of Ellen, a four-year old, who Miss Coe considers fit for the kindergarten group. The father, a freelance writer and translator, has just changed from editorial work with Maxim Lieber's literary agency in New York to similar temporary work with the Railroad Retirement Board."

You recall that Mr. Chambers produced here a copy of an application for a false passport that he has kept all these years, since 1935, 14½ years. He used the birth certificate of David Breen, who died at the age of 3½ years old. Oh, he claims that that was given him. And I want to call to your attention the fact that [4539] he always puts the blame on somebody else. When I asked him, "Have you ever written under a pseudonym?" "No."

"Didn't you tell the House Committee that you had never written under a pseudonym?" "Yes."

"Haven't you written book reviews for the American Mercury under the name of John Land?" "Oh yes."

He didn't think I knew it. But Eugene Lyons, the editor then, in whose apartment Hede Massing was on September 19, 1948, suggested it. And the illicit cohabitation with Ida Dales—"My mother requested it." The use of the false passport and the many lies that he told—"I was instructed, I was acting as a soldier." It is no defense to Whittaker Chambers for getting a false passport that he was a Communist and it was suggested or even that it was ordered, no more than it is Reubens who was indicted, and as it was testified from the stand, has never come back.

Now, at this trial Mr. Murphy in direct examination of Mr. Chambers asked him about that passport and about the application. Why? Why didn't he do it at the first trial? Did the Government know about it at the first trial? Take a look at Defendant's Exhibit D—"In testimony whereof I, Dean Acheson,"; the certificate is [4540] dated March 15, 1949. I put in a letter from the FBI dated March 14, 1949, asking for that application, and noted right on the letter four copies furnished, one—there were four copies, one or all of them passed. This is a passport, as you can well know. The FBI and the Government had that at the first trial.

Why didn't Mr. Murphy ask Mr. Chambers on his direct examination at that time, "Didn't you file, Mr. Chambers, a false application or an application for a passport that you got in 1935, and I show you this passport? It shows you with the mustache. Did you have a mustache then?" No. It wasn't mentioned. And yet by the questions asked you would be asked to infer that the reason we found out about it then was that Alger Hiss knew that Whittaker Chambers went under the name of David Breen.

I put in the letter from John F. Davis, associated with me as counsel in Washington to do what work down there we thought to have done, and he wrote to Mrs. Shipley and said, "You will recall that last summer I came around and asked you about whether or not there is an application under various names, and you told me that I couldn't see it," or something to that effect. Anyway, he didn't get it.

[4541] He said, "Will you please tell me whether there is an application under the following names"—I think there are 11 or 12 or 13 false names—"including his right name that Whittaker Chambers had used?"

Were we fooling ourselves? We would have said David Breen. Now, the surprising thing about this, in the letter from Mrs. Shipley, she said, "While some of these are common names, yet there is one that comes within your description."

How did Mrs. Shipley know that? This certificate (indicating) and the request from the FBI and the House Committee for copies of them.

Now, what follows from that? We, upon receipt of Mrs. Shipley's letter, filed a motion that the Government produce and show us this application. It was heard before Judge Bondy, and he handed down a decision and said we were entitled to see it; and just before the trial we saw it, and that is why it was inquired about in direct to try to dull the brunt of the damaging cross-examination which was coming out for the first time. And then to gild the lily, Whittaker Chambers testified for the first time, "Why, Alger Hiss knew me as David Breen; we talked this over; we discussed going to England under a religious cover." He had not ever [4542] testified to this before. If he had, the cat would have been out of the bag on this false passport.

I do not make any accusation against the Government. I shan't. Or against the FBI. They have a right to try the case their own way. But if the argument is made to you ladies and gentlemen that we knew or Alger Hiss knew Whittaker Chambers was going under the false name of David Breen and because of that knowledge we knew which name to ask for in writing Mrs. Shipley, I just want you to remember this evidence, and in connection with any comment, if any is made, about any information I might have or other counsel—and I take entire responsibility for everything so far as the defense is concerned —I submit that I tried to present the evidence to you as we knew it.

I want to speak now about the apartment: After seeing Mr. Hiss a couple of times in his office and a few times at lunch, on one occasion Mr. Chambers said that he wanted to come to Washington with his wife and little girl and they wanted to get an apartment. Mr. Hiss had been living at the 28th Street apartment. They had hired a furnished apartment at 2905 P Street from a naval officer. They had prior to May 1, 1935 given notice to the electric light company, Potomac Electric Power Com-

pany I think—anyway it is the electric light [4543] company that serviced the house at 28th Street—had given notice that as of May 1, 1935 they wanted the electric current turned off. Government's Exhibit 6-D. This is a letter from the commercial manager of that concern—no, I am sorry, Government's Exhibit 4. I was giving the number in the previous trial.

"Our records show"—and this is the commercial manager of the Power Company to Mr. John F. Davis—"Our records show that service at Apartment 42, 2831 28th Street, Northwest, was ordered disconnected as of May 1, 1935, whereas our disconnect records show it was actually disconnected on June 29, 1935."

What had happened? They had moved in to the 2905 furnished P Street apartment about April 17 or April 19, 1935. They had given notice to cut off the light. They were abandoning the last two months' rent under the lease which expired July 1, 1935. So that whatever arrangement may have been made, whether it was provident or improvident, silly or wise or economical, however you may think about it, remember that the arrangement was made after Mr. Hiss had given notice, or Mrs. Hiss, to cut off the electric light on May 1. They were going to abandon the rest of the lease.

So with $60 monthly rent with two months to go, an offer to pay cost, namely, the rent of $60 a month, [4544] $120, was not a bad deal even if Hiss paid for the utilities and later gave him a $25 six-year old Ford. If Chambers had really paid he would have still been to the good.

Now, there has been some comment that the lease was oral. Good heavens, the lease was oral, and they were Communists, according to Chambers, fellow Communists. Would Alger Hiss have sublet his apartment to a fellow Communist, let him live there for six weeks; would he have permitted him to take it over without a written lease so that if anyone had ever said anything—"Here is my lease, it is a business transaction; he is paying me $60 a month." Oh no. Mr. Hiss has made a number of oral leases; so has Mr. Chambers. There wasn't any occasion,

particularly where he was abandoning the rest of the lease, to have a written lease about it. It would have been so much better if Mr. Hiss had asked for a written lease, and then he could make the statement that he obviously would have made if he had really been a Communist and wanted to show that it was strictly a business transaction.

Now, Mrs. Chambers made a slip in her Baltimore deposition with reference to the arrangement, and I will read it to you, page 1280:

"Q. You don't recall ever seeing him or you have [4545] absolutely no recollection of what name you used?

"A. No, I don't.

"Q. And you say— A. And furthermore I cannot recall that we had our name on the bell there in that place. You see, the apartment was already in the Hisses' name and there was not any need for our name on the bell. We were just there for a short sublease, and I cannot recall that there was any name on the bell. I said 'sublease' but actually we did not sublease the place at all."

Then the other suggestion that had been made by Mr. Murphy in cross-examination, "Well, you did it without checking on the financial responsibiltiy of Chambers." That argument is not sound. Chambers had said that he was a freelance writer. His earning capacity depended on his selling articles, and you could have investigated all you pleased and you could not have told whether or not he was going to be successful in selling articles and paying the $60 a month that he agreed to pay to Alger Hiss.

So that I say that rather than being any relationship that is suspicious, it is just absolutely inconsistent with the action of any man who had any illegal conspiratorial relationship, particularly to commit treason against the United States, that Whittaker Chambers [4546] says that Alger Hiss had at the very time that he was living in his apartment.

I am taking up another subject, if your Honor please.

THE COURT: You would like a brief recess now?

MR. CROSS: Yes, if you please.

(Short recess.)

MR. CROSS: If your Honor please, ladies and gentlemen of the jury: I will first now discuss the matter of the evidence with relation to the Ford car. Mr. Chambers on his direct examination stated that Alger Hiss had turned over his old Ford car to the Communist Party for the use of some poor organizer in the West. Alger Hiss in his testimony told you the truth about what happened with relation to the Ford car. He told you that Chambers had remarked at the time they were talking of subletting the apartment that he needed a car, and at that time Mr. Hiss was looking for a new car and he offered to turn over to him the Ford car when he got a new one, which took place, I think, either in August or some time during the late summer, during which time Mr. Chambers had borrowed it on several occasions and finally took possession of it in the spring of 1936.

If Alger Hiss had been a Communist and was a Communist in August of 1948 would he, when he appeared [4547] before the House Committee, before he had ever seen Chambers, have volunteered that information with reference to the Ford car, stating that he had borrowed it a number of times and that he had turned it over to Chambers. Now is that the evidence? Page 3154 on the redirect of Mr. Hiss:

"Q. I call your attention to the question by Mr. Stripling and your answer to the question appearing on page 957:

" 'Mr. Stripling. What kind of automobile did that fellow have?

" 'Mr. Hiss. No kind of automobile. I sold him an automobile. I had an old Ford that I threw in with the apartment and had been trying to trade it in and get rid of it. I had an old, old Ford we had kept for sentimental reasons. We got it just before we were married in 1929.' "

Then I asked Mr. Hiss if that question was asked and that answer given before the House Committee and he stated it had been.

Now the certificate of title contains on its face I think conclusive evidence that Whittaker Chambers' story is a

fabrication. You will recall the testimony was that on several occasions Mr. Chambers borrowed the car. [4548] He had it a couple of months in the fall of 1935 and then in the spring of 1936 he took possession of it finally. The exhibit here, Government's Exhibit 49, is in Mr. Hiss's own handwriting (exhibiting to jury). Cherner Motor Company, 1781 Florida Avenue, Northwest. Alger Hiss.

Now, there was some typewriting on it, "none" showing that there was not any mortgage or any encumbrance on the car, and then the "23rd of July, 1936," the name "Alger Hiss."

The gentleman from the Cherner Motor Car Company said that that was typed at the office of the Cherner Motor Company. They sent it over to Mr. Hiss to sign. Mr. Hiss was not willing to sign a blank check for this car so he asked, undoubtedly—there is no direct testimony. He does not remember it—but the fact that Mr. Hiss, in his own handwriting, wrote in the name of the Cherner Motor Company indicates he insisted on knowing who the transferee was to be. It had not been typed by the Cherner people.

Furthermore, the acknowledgment was taken before W. Marvin Smith, a man a couple of doors away in the Department of Justice from the office occupied by Mr. Hiss. That can only mean one inference; that it was sent to Mr. Hiss because it had not been signed and sworn [4549] to when he turned it over to Mr. Chambers to have it filled in, and Mr. Hiss had an office associate sign and take his acknowledgment. If there had been anything sinister do you suppose Mr. Hiss would be having his acknowledgment taken in the Department of Justice before a man who had been in the Government's service for 30 years if Chambers' story that Mr. Hiss drove the Ford down to the Cherner Motor Company, which is a reputable agency in Washington, the largest Ford agency at the time in Washington, and left it; that he had driven it there and left it, if that were true Mr. Hiss would have signed this paper at the Cherner Motor Company where they had a company notary as appears in the name of Henry J. Gunther, the man who took the second acknowledgment.

Again, on this Government's exhibit Mr. Hiss testified, and that testimony is uncontradicted, that only the assignment of title was written in. All this (indicating on exhibit) was blank having to do with the reassignment and the purchaser's application for a certificate of title.

Now, at that time, July 23, 1936, the date this was signed, the Hisses were living at 30th Street. Government's Exhibit 8 shows that they moved, or at least the utilities were turned on, there July 1, 1936. [4550] Mr. Geoffrey May, a neighbor, testified here that he had never seen any Ford there. Mr. and Mrs. Hiss testified that it was disposed of before then. They went down and they lived in this Martinique Hotel for two weeks. They did not have a garage. They were fearful of a parking ticket, and every so often they went out and moved the car so they would not get a ticket; moving down for two weeks at the Martinique Hotel and having to depark their Plymouth which they had at the time, and if they had the Ford car at the time they certainly would have remembered it.

The Catlett boys who always washed the cars, testified it was disposed of before they went there and at a date earlier than July 23, 1936. I say that the documentary evidence and all the testimony here is that that car was turned over to Whittaker Chambers, and what he did with it, and if there be finagling with the Cherner Motor Car Company, goodness knows, don't blame us. Alger Hiss wrote in the name of the Cherner Motor Company to make sure that the record was right. The official who took the stand testified that there was not any invoice. They did not have the records of the mortgage. Incidentally, that record shows a mortgage of $25 when it was supposed to be transferred from the Cherner Motor Company to Rosen. We do not know anything about that, [4551] but the testimony is it was not recorded. Well, if it was a genuine car worth $25 and sold to a man subject to a mortgage for $25, it is not going to help any Western representative very much, but be that as it may, it was something that happened after we turned it over and we know nothing about.

I want to call your attention to what happened before your very eyes. Rosen, William Rosen, whom the Government knew before they called him, as the record clearly shows that you heard, knew that William Rosen was going to claim his privilege and was not going to answer a question with reference to the car or his relation with the Communist Party. Now, why did the Government call him? I know you are not going to let that prejudice you against Alger Hiss, whom Rosen testified he had never seen, I think, until the first trial, never had any dealings with, and no one had ever spoken to him representing Mr. Hiss. Mr. Hiss testified he had never seen Rosen or had anything to do with him, and his Honor told you not to draw any inference, and I am sure you won't. The Government knew before they put him on that he was going to claim his privilege.

[4552] So on the Ford car you have the sole testimony of an admitted perjurer, Whittaker Chambers, as against the testimony of Alger Hiss, the documentary evidence, the testimony of Geoffrey May, and every reasonable probability in the case. And I say that the transfer of the Ford, if it was a good trade or not, that is not before you; the only possible bearing of dragging it in here is to try to suggest that Mr. Hiss wanted to give it to somebody out West who was an organizer for the Communist Party. I am going to deal with the charges by Whittaker Chambers that Mr. Hiss is a Communist later but that is the only bearing and that is exploded.

Next, the oriental rug. What is Chambers' testimony about the oriental rug? It is that in December 1936, pursuant to orders from Bykov, he gave an oriental rug to Alger Hiss. We do know from Julian Wadleigh's testimony that he was given a rug, but he had been stealing documents here since March 1936. He did not surprise me. Let us see what the evidence is with reference to any rug being given to Mr. Hiss. Chambers' story is that he gave this rug to Hiss before Mr. Hiss ever saw, according to his own testimony, ever saw Bykov. And yet he tells that that is in appreciation of the Russian people for what he has

done. Even [4553] on Chambers' own story the rug was purchased December 26, 1936. And what does Chambers say with reference to when this wild chase took place across New York, over to Brooklyn, to a theatre, and back to some Chinese restaurant where he said Alger Hiss met Bykov?

He first testified in Baltimore that he never met Bykov himself until July or August 1937. 1937. And that Hiss was introduced to him in August or September, in the early fall, of 1937. He has now changed his story and pushed the meeting back to around January 1937, but still after the time that he claimed that the rug was given. Now, even on its face you would not believe that story. You have the fact that I have mentioned that Mr. Hiss before he ever saw Chambers in August 1948 volunteered that to the House Committee. Page 3156 of this transcript:

"Q. Mr. Hiss, I call to your attention, or I will ask you, whether this question was asked you and you gave this answer which appears on page 964 of the House Committee record:

"'Mr. Nixon. Even though he did not pay his rent you saw him several times?

"'Mr. Hiss. He was about to pay it and was going to sell his articles. He gave me a payment on account once. He brought a rug over which he said some wealthy [4554] patron gave him. I still have got the damn thing.'

"Was that question asked and did you give that answer? A. Yes, sir.

"Q. Was that the first mention that you made before the House Committee of any rug? A. Yes.

"Q. Had you been asked any question about any rug? A. I was never asked any question up to that point. I volunteered.

"Q. And that testimony was on what day? A. I think August 16. I would have to check to make sure."

And that, ladies and gentlemen, was before he ever saw or was confronted with Whittaker Chambers at the Hotel Commodore a few days later. And he still has the rug. Is that the action of a man who is trying to conceal something? This very day it is on his floor. Did they ask

that it be brought in here or identify it or anything like that? No.

And may I say a word about the story told here about the delivery of the rug. They bring on the rug man. He said he sold four rugs. Professor Meyer Schapiro. Professor Schapiro comes on and he testifies that they were delivered and then they were sent to a man in Washington by the name he thought of Silver, and he is identified as Mr. Silverman. Where is Silverman? Did the Government bring him on? [4555] There is a link missing in the chain, a very important one, the last link that gets to Hiss, even according to Whittaker Chambers' story. He tells you the bizarre story about driving out on the Baltimore road to some restaurant in the dark, both lights of both cars being turned off, and then he gets out of the Hiss car and goes over to Silverman's car and picks up the rug and brings it back, and neither one knows anything about the other. Pure fabrication to try to lend color to a story that he has concocted to try to convict Alger Hiss.

Now the trip to Long Eddy. When Whittaker Chambers was asked by the House Committee, "Did you ever spend a night, did you ever go any place and stop overnight with Mr. Hiss?" "No." Since then he has told you about the Peterboro trip, two nights, one at Thomaston and one at Bleak House, according to his story. Another Long Eddy—although the Long Eddy wasn't overnight. It is Erwinna, Pennsylvania, that I will speak of. But this Long Eddy I will deal with first and then we will come to the overnight ones.

He testified here for the first time that they drove up with the Hisses and looked at a cottage near Long Eddy. He thought it was in the summer, he thought it was around June 16th because he saw some ad. [4556] The Government put in as Exhibits 21 and 23 the New York Times for June 23rd and June 30th and also another one of June—Exhibit 22, the New York Herald Tribune for June 16, 1935. The story is they went down in the basement of the Meyer Schapiro home and looked at these ads and then went out to look at this cottage.

Here is a man telling you that this took place on June 16, 1935. Incidentally, they had already said they stayed at the Washington Street apartment until the end of June 1935. But for some reason he now works in for the first time this Long Eddy trip, and he gives you the date of it as June 16, 1935, from a man who can't remember his anniversary date, when he testified a number of times. What do you think of that for remembering dates?

[4557] I am going back to this matter of Mr. Silverman not being called here by the Government. Mr. Murphy may say, "Well, why didn't the defendant call here?" We don't have to prove the case; it is the Government's duty. You might just as well say, "It was up to you to call the man who sold the rug, Professor Schapiro." It was up to the Government to call Silverman, and in his absence that is significant.

There is another little touch where Chambers' story did not fit. He said they drove in the Hisses' Plymouth. Goodness knows if they had driven to Long Eddy in a rumble seat Ford he would have remembered it. No, they went in the Plymouth—which the Hisses didn't get until August at the earliest—and this trip he places at June 16, at least two months before the Hisses got the Plymouth.

Now let me say a word about the Boucot cottage. Both Mr. and Mrs. Chambers testified that Alger Hiss and his wife visited them there in August 1935, in a cottage that they had rented in Smithtown, and that while they were there they were introduced to Mr. Boucot and his sister Mrs. Brown.

We brought Boucot here. He testified at the first trial. We also brought Mrs. Brown, and you will recall her testimony, how when she was in [4558] the hospital at Hot Springs, Arkansas, an FBI representative came around and saw her and showed her—what? A picture of Mrs. Hiss; and said, "Can you identify Mrs. Breen?"

She said "I think so."

Later in the conference she said "I am not sure."

That night she thought it over, and when he came back the next day she said, "I am glad you are here. I now remember, I know that wasn't Mrs. Breen."

He said, "I know it." It was Mrs. Hiss's picture.

As I said, I am not going to criticize anything the FBI have done, but you certainly do have instances in this case of over-zealousness on the part of some representatives of the FBI, that have appeared in evidence.

Now, what did they say? They say they never saw Mrs. Hiss. A cottage a hundred feet away; there ten days, tending the baby—and Mrs. Chambers always has Mrs. Hiss doing the most menial services for her. She is painting; Mrs. Hiss is taking care of her baby—a cottage a hundred feet away, and Mrs. Brown had been down for two weeks, and both of them told you they never saw her. She says she never saw them until the day she testified in court. Mr. [4559] Boucot testified at the first trial that he saw them, I think, the night before. That meeting at the Boucot cottage is a pure fabrication, and the evidence conclusively shows that both Mr. and Mrs. Chambers deliberately lied about it.

Now I am coming to the Peterboro trip: If there is anything in the case that has been definitely proven to have never taken place it is this weird story of a Peterboro trip. Now just imagine, here the Hisses are on the eastern shore of Maryland. It is Mr. Hiss's vacation; he is there from July 15 to August 15 or 14; and during that time they did not make any trip—and I will recite the evidence—but Mr. Chambers says that he, living in Baltimore, rode all the way to Washington, there met the Hisses at 30th Street, got in their car, drove back through Baltimore, and then on to Thomaston, Connecticut, spent the night in some cottage —that in two trips the FBI failed to find—and then went on to Peterboro, a trip of 600 miles; got there, and they waited out in the car; they did not know what he was up there for; but he goes down the lane to see this man now dead, Harry Dexter White, who held a very high responsible Government position in the Department, in the Treasury Department, for 15 minutes to talk about a new

[4560] monetary system in Soviet Russia. He comes back; he says nothing to the Hisses about going up and seeing White; says nothing to them about having seen White. Then they go along back, and just to throw in something that Mr. Chambers is always doing, Mrs. Hiss stopped and had a swim in a pond that they saw on their way up. The first time he has ever told you about the pond. Why that, of all things, to drag in for the first time before you? More color, but I am afraid too much color.

Then to get back to the Bleak House. Well, we had Mrs. Davis down here. She had rented the Bleak House for three years. Officially it was open on August 1, 1937, for business. She had taken three guests, and they had all registered before August 13, 1937. Can you imagine a woman who had committed herself for three years rent on that place not remembering her guests, her first guests?

To show you how good she was Mr. Murphy picked up the Bleak House guest book and turned to page 40 and asked her about some woman—I think I can find the name of the woman—and she said, "Yes, I remember her; she came from Springfield."

This (indicating) is the guest book, Bleak House, which is marked here Defendant's Exhibit V. First name, Wendell Kenyon, and that is July 22; next, Knowlton— [4561] I can't make out the first name—New York, August 3, 1937; Margaret Kemp, Northampton, August 6, 1937; Mr. and Mrs. Joseph Hughes, Boston, Mass., August 13, 1937.

Chambers went up to Peterboro with the FBI. They got that book, and Chambers found out the names weren't there, which he knew all the time. The FBI wanted to see it. He very likley told them it was there. It is strange that at the two overnight cabins where they stopped at Thomaston—"Sure we registered. At the trip to Erwinna, sure we registered,"—but he can't tell us where it is so that we can bring it here and show the same thing that we have shown here about the Bleak House book.

And may I say something about a comment or question that was asked about our checking the records of this hotel in Baltimore to show that the Hisses never spent any

time after their marriage, the suggestion being, "If you knew your name wasn't there why did you look?" Why do you suppose we put in the Bleak House record? To show that it wasn't there, and other people's names were there, and that is why we tried to get the records of the Baltimore hotel to show that for a period of December 11 for a couple of weeks the Hisses weren't registered.

[4562] Now, that is not all. Mrs. Davis said that she had never seen the Hisses before—that is, she had never seen the Hisses before the first trial. I showed her Mr. Chambers' pictures. She had never seen him.

You have that bank record brought here in this trial for the first time, that little summer account at the Chestertown bank where they made a deposit on August 9, which was a Monday. The bank does not open until 9 o'clock. The bank is two blocks away from Mrs. Wickes where the Hisses were living. Mr. Hiss said he never mailed a check for deposit to that bank. The only reasonable inference that you can draw is that on August 9 Mr. Hiss endorsed the check for a hundred dollars and deposited it in his account in that bank. Yet Chambers said between 9 and 10 the same day they left the 30th Street house to drive back through Baltimore on their way to Peterboro.

Not only that but Mr. Thomas Fansler arrived from Europe on August 2, 1937. His daughter Ruth—Sudy as she was called—had had pneumonia. Mr. Fansler had pneumonia himself in England, and when he got back to this country for a few days he was under his doctor's care and he told him not to go down until he felt better. August 2 was the day the Bremen docked, August 2, 1937. He was on the [4563] Bremen, and you can bet if Thomas Fansler had not been on the Bremen on that day you would have had the manifest here to show that he was not. He was on the Bremen on August 2, and August 2 for the year 1937 was a Monday. He said the next weekend or that coming weekend he went down, on a Friday. He stayed over until Monday, August 9, the day they were supposed to leave, according to Chambers' story, Washington, and that the Hisses drove him in that car to Wilmington, Delaware, to take the train.

No such trip ever took place, and I am going to comment when I come to discuss motives why anyone except one who has a bad motive will find it necessary to tell one lie after another to try to bolster up an honest purpose or honest motive. It is a dishonest, bad motive that you have to support with lies, and it is a bad motive that prompted Whittaker Chambers to do everything he has done in this case in trying to frame Alger Hiss.

Now there was one thing that developed in this case that really trapped Whittaker Chambers. There were only two occasions that he ever gave a specific date; one was that they were in Peterboro on August 10, and the other was that they went to Erwinna, Pennsylvania, on the Saturday before Easter Sunday in 1935 because [4564] at Norristown they stopped at a red light and he remembered seeing the policeman carrying a lily, and Mr. Hiss being very much pleased. Those were the only two dates you could ever nail him down to. Now why did he take August 10th? I can prove it to you by documentary evidence why he did it. Mr. Chambers was a reader of the New York Times. In fact it went back to the days when he used to slant the news for the Daily Worker. We put in the New York Times for Sunday August 8, 1937, ladies and gentlemen, and on the page describing what theatres have the honor to offer this week, and then by states, New Hampshire: "She Stoops to Conquer", Peterboro. Tuesday. Tuesday was August 10th. "She Stoops to Conquer" played five days, August 10th through August 15th as the lady who came down to testify told you. The only thing Whittaker Chambers knew was that the New York Times said Tuesday and he is taking no chances and he fixes the date that they saw "She Stoops to Conquer" as August 10th.

The next transaction that I want to discuss is this $400 loan. The story of Chambers is that Hiss loaned him even—even $400 to buy a new car so that he could own it free and clear. Both Mr. and Mrs. Hiss have categorically denied this, and I think you will agree with me that such a transaction is just [4565] senseless and unthinkable.

There was a withdrawal on November 19, 1937, by Mrs. Hiss, not Mr. Hiss. It was a joint account and she drew out the $400 to make purchases for the Volta Street place, and while I am speaking of the Volta Street place, the testimony here of Mrs. Tally about putting an ad in a Washington paper on December 5, 1937. I haven't any doubt she did, but she crossed her wires with her agent. The lease here is dated December 2nd. She did not know when her mother had signed it, and Mr. and Mrs. Hiss said that for some time they knew that they were going to take the house. There is no ad in the papers from October until this one suddenly pops up on December 5th. In the meantime the Hisses had been negotiating a lease and a lease had been signed. Certainly the testimony of Mr. Hiss is uncontradicted that the lease is dated that time. It is signed by Mrs. Flanagan, and Mrs. Tally can't tell you when her mother signed that. So that I shan't have to come back to that I digress a bit to deal with that bit of evidence.

But now, when that withdrawal was made Mr. Hiss had bought a new Plymouth in September 1937, which, incidentally, he is still driving. He had bought a Plymouth in August of 1935. He turned in that [4566] Plymouth and there was some difference of $300-odd—no, he got $325, I think, for allowance, but anyway the balance of that, $375, Mr. Hiss gave a note for, payable in equal monthly instalments over a period of 12 months beginning in September. On November 23rd he had paid two monthly payments of $36, and some odd cents, which was the amount of the monthly payment; ten more payments to make on your own car. Mr. Hiss paid approximately $60 carrying charges to be able to pay up and get his note back so that he owned his Plymouth car honestly and purchased with his own money.

His bank account on November 30, 1937, was $14.69. On December 8, 1937, they borrowed $300 from the bank to pay household bills.

What does Mr. Chambers say took place? He says that in a talk that they had (page 160):

"Q. What did they say or you say?"

This was with reference to that note.

"I talked with both of them.

"Q. Whom did you talk to? A. I talked with both of them.

"Q. What did they say or you say? A. I said that I wished to buy a car; that Colonel Bykov was opposed to my using a car, but that a car was very necessary in the work I was doing; and either Mr. Hiss or Mrs. Hiss [4567] then offered me this amount of money, the amount I have named."

Good heavens, he had had a car since August of 1935 bought by Communist money, this tan Ford that he had all during the time and yet in November 1937 he is saying to Mr. and Mrs. Hiss "Bykov won't allow me to use a car in my business," when he had had one over two years, and then the Hisses offered to loan him $400. Why didn't they offer to loan him $486.75? That was the exact amount of cash that had to be paid.

If the amount that was withdrawn by the Hisses to buy things for the Volta Street place had been $300, Whittaker Chambers would have told you the same story. And mind you, he was asked during his Baltimore deposition; he was asked before the grand jury; he was asked before the House Committee all of his relations with Alger Hiss, whereas the first time he told about the $400 loan was at the first trial.

Mr. Murphy said, "Well, you don't think that Mr. Chambers by any chance saw this savings bank book which showed the withdrawal?" Of course not. What did he see or what was he told about that? What did he know about it? The bank's records that show that withdrawal from that savings account was taken [4568] by the FBI on January 31, 1949, when Chambers was spending day in and day out with the FBI and I can imagine them saying, "Well, now, I notice a withdrawal from the Hiss account on November 19, 1937, of $400. Did you have any transaction then?" "Oh, yes. I bought a car."

The first time he ever testified to it was after the FBI had that bank account. Why didn't he tell us before? Why didn't Mrs. Chambers know about it? In the Baltimore deposition these questions were asked and she gave these answers, and I am referring to transcript page 1350-51:

'''Q. How about the automobile? A. Mother comes in there some place. I don't know. Mother did help us out at various times. She probably gave us the money for that.

'''Q. Well now, how many times did your mother give you money? That is your husband's mother, is it not? A. Yes. That I cannot tell exactly. Mother helped us out in many ways very often.

'''Q. Now you tell us that his mother helped him out. Now, to what extent did she help him out financially? A. I cannot tell you that. I don't know. But in the instance of the car, for instance, she did help on that.

'''Q. You think she gave him the money to pay for that? A. I think so. I am not certain. These things [4569] were taken care of by him, and I don't know. I can only tell you what I know.'''

Do you suppose Mrs. Chambers wouldn't have known about it if the Hisses had offered, under their financial stress, to give him or loan him—he might as well have given it; he has never repaid it, he has never offered to repay it, even when he is getting $30,000 a year. Wouldn't she know about it?

Well, the truth of the matter is that that money was withdrawn and used by the Hisses in furnishing Volta Place. Now, I want to call your attention to the Bowery Savings account where there were five withdrawals of $250 each in 1933. Suppose Mrs. Hiss had been asked by Mr. Murphy, "What did you do with that $1250 you withdrew from the Bowery Savings account in a matter of a month or two?" Mr. Hiss was not getting his pay checks from the Government. But to have her account at this date for $1250 that she withdrew in 1933? Of course she couldn't do it. She made no record, neither did she make a record at that time of the $400 because she never heard of the Chambers' story about the loan until May or June of 1949, which was some 11 years after.

So I say that in the first place if it is really seriously claimed that there is any loan, gift [4570] or whatever you call it of $400, it is against all reason, the evidence is against it. If it is suggested that that is corroborative evidence of some 1938 meeting with Mr. Chambers, that evidence is more consistent with innocence than it is with any guilt. It is consistent and it was used to help furnish the Volta Place.

Now I want to say a few words before going on to documents about some testimony of witnesses, two witnesses produced in rebuttal. One was Mrs. Edith Murray. That testimony could have been offered in the direct testimony, when the defendant would have had a chance to check her story, instead of the last day of the trial, just as much a part of the Government's case as it is to have Mrs. Chambers testify about alleged visits from the Hisses to their Eutaw place. The purpose of cross-examination in checking is most important, as you can see, as to what has been done about the Boucot cottage, what has been done about the Peterboro trip, and various other instances that we have been able to show you conclusively could never have taken place.

Now, Mrs. Murray very likely thought she was telling the truth, but there are parts of her story that are so preposterous that I say—and I don't accuse the FBI of doing it intentionally, but I say that [4571] Whittaker Chambers did when she was at the farm for three hours; suggested things to her that were not in her mind. Suppose she had been put in that witness chair the first day the FBI man went down to see her—Mr. Metzell; and she said that she could not identify Mr. Hiss's picture, that she is not sure whether she told the FBI man, but she thought Mrs. Hiss's picture was familiar because she thought she was an actress and that she had seen her in the movies. Now, suppose they had brought that witness on here and she had testified to that. How much credence would you give to that testimony?

The FBI agent first said he represented Mr. Cantwell. Why? He was working for Mr. Cantwell? If he told her that

he was an FBI man would she shut up like a clam? Working for Mr. Cantwell. The first thing he did was to show her some picture of herself. Why? To flatter her. She was pleased; you could tell by her actions how pleased she was to see this picture. Then when the name Cantwell was mentioned she was pleased that perhaps she might go back to work for them. That is a bit inconsistent with her story that she hadn't worked since 1942 because of this nervous breakdown.

But be that as it may, she hadn't heard anything [4572] about the case. She kept saying she didn't know what it was all about. Then three FBI representatives come over to take her down to the farm. Why three? And on the way she says, "Isn't that the place where they found the pumpkin with films?" She hadn't heard anything about the Hiss case. How in the world, on the radio or any other way could you hear about the pumpkins and the films without knowing that it was connected with the Hiss case?

Now when they got down they spent three hours. Why three hours to look at Mr. and Mrs. Chambers to see if they—if she could remember them? No; they took her through the house, showed her rugs, showed her furniture. Why? Trying to see if they could suggest that here was some new furniture that they had that they didn't have at St. Paul Street perhaps. Because you recall the testimony of Chambers, that the Hisses brought some furniture over to Eutaw Place. I am going to comment on that. The significant things that she didn't testify to. That, if she had a real memory and if these things ever happened, she would remember. I say they never happened as testified to by the Chambers, and that in the case of Mrs. Murray she simply was thinking of somebody else who visited the Chambers, and I think I can suggest who it was. It was the Maxim Liebers who [4573] lived at the Boucot cottage with the Chambers in August and up to Labor Day of 1935. They moved from the Boucot cottage to Eutaw Place; when they moved from Eutaw Place they went to Ferndale which was Maxim Lieber's own place. One reason she had for identifying them was that they only had these two people who

called on them. And yet her memory is so vague that she thought Mrs. Hiss looked like an actress, and she couldn't identify Mr. Hiss.

Now that is all until she is brought up here on the day that you people started to hear the evidence in the case, in a crowded corridor here that she picked them out. Well, if you remember going down that day, if there was anybody didn't recognize or have pointed out to him Alger Hiss and his wife—an unfortunate experience—have them pointed out as they walked out of the corridor, I never saw anyone who could have escaped recognition. Why bring her up here?

Now, what are some of the other things that she testified to? She was asked by Mr. Murphy, "Could you recognize her husband?" Here is her answer. "Yes, I couldn't help but remember him."

"You couldn't help?"

"No."

[4574] She saw him once when he was leaving and only once until she saw him on November 17th. She couldn't help but remember him. Now at St. Paul Street she said she worked there all the time and the Hisses said—the Chambers said the Hisses came for dinner. She doesn't tell you that. She always got dinner. She testified to that. Also, Mrs. Chambers testified that she had the Hisses for dinner at the Eutaw place. She doesn't testify about that.

Then there are other inconsistencies in her statement. At 903 St. Paul Street Mrs. Chambers said Mr. Hiss came up there and got the furniture. If she was working for them wouldn't she have seen him at that time if that ever took place? Of course it didn't take place. She said that she had cleaned out the Eutaw place, cleaned it up and was there when they moved in. Mrs. Chambers testified that Mr. Hiss brought the furniture to the Eutaw place. If that had ever taken place she wouldn't have to draw on her memory 11 years old, which was so dimmed, when they first saw her, to try to remember Mr. or Mrs. Hiss here in this courtroom. She would have remembered that.

Now the truth of that is just this: Those stories told by Mrs. Chambers about the Hisses going there for dinner, about the Hisses coming for the [4575] furniture and about the Hisses having dinner at Eutaw Place and about bringing the furniture there is a lie. The testimony of Mrs. Murray who had had first the meeting on Sunday of the FBI when he told her that he was working for the Cantwells, the trip to the farm and back with three FBI representatives, three hours down there, then the FBI man came back to ask her some more questions—what questions?—and then she said, "Well, they were around there for a long time," and brought her to the station in Baltimore, they met her at the station here in New York. Was her nervous breakdown when the doctor suggested that she not even read the papers—how easily it is for her to believe the suggestions such as Chambers used on Clidi Catlett and used on Martha Pope, but for a different purpose, in reminding her of the name "Miss Priscilla."

[4576] Is that consistent with the testimony here on cross-examination that she thought she was an actress? I say that that testimony was certainly not to be believed, and I repeat that I don't think that Mrs. Murray intended to tell an untruth. She just was telling you about someone else who I think had lived with them before and lived in the same place with them afterwards, and we can readily assume this in the interim when they lived at Eutaw Place.

Now, I want to say something about Mrs. Chambers' testimony. First with reference to the 30th Street house. I do not mention the 28th Street house or the P Street house. The Chambers lived six weeks at the 28th Street apartment and two or three days at the P Street house. And, of course, they could describe, if they were making notes or keeping a file on Mr. Hiss, as Chambers was doing at the time, as I think I can show you he was doing with Darlington—if he was making notes, mental notes or written notes, or what have you, of course they would know about the furniture, and so on. It is the 30th Street house and the Volta Place house I am going to tell you about. I will also tell you that in some of her testimony her testi-

mony was quite accurate, and in others it was surprisingly inaccurate. I will say to you that the cases when it was accurate were cases in which either she or Mr. Chambers or [4577] investigators who were undoubtedly working on this case could have found out from the outside. Furthermore, the mistakes that were made were mistakes that show that the investigation was made recently, otherwise they would not have said that the outside of 30th Street was white when it was a garish yellow when the Hisses were there; they would not have said that the shutters were one color when they were another when the Hisses lived there; they would not have said that the brick walls at Volta Place where white when they were red until 1946. Mrs. Chambers would not have talked about stepping on a stoned-in piazza when that wasn't put there until 1946.

Now, there is some mention about a flagstone piazza that was mentioned by Mrs. Tally. If that is of interest to you, it is about 30 feet from this door where Mrs. Chambers said she stepped on the stoned-in piazza, and that was her undoing at the first trial. She tried to get away from it here but she did not. Those are some of the things that show it is of recent examination.

Now, did they have investigators checking up? Mind you, Mr. Hiss sued Mr. Chambers on September 28, 1948. He had dared him in August to call him a Communist where it was not privileged so he could sue him and have the matter tried out before a court. Chambers got [4578] Baltimore counsel. Time, Incorporated had their own counsel. What interest did Time have in it? But yet Mr. Marbury told you about a conference down before Judge Chestnut when Time's counsel was present. Were they investigating from the time suit was brought on September 28, 1948 until the depositions started on November 4, 1948 in Baltimore? Why, of course they were. One of the issues that they were going to try to make—they wanted intimacy, they wanted to describe the house, the color, the furniture, and so on. Take the location of the kitchen at the Volta Place house. If you will look at the kitchen you will see a ventilator stuck out of the room. Where do you find a

ventilator in a house? Look at Defendant's Exhibit C. Look at the ventilator there. In what other room would you find a ventilator except from the kitchen, and that is the kitchen. And the bathroom is described as the one above, an ordinary plumbing arrangement. In order to save time, where is your bathroom with reference to the plumbing? Over your kitchen. Where is that fireplace? Why, I could tell you and go through and point out where every detail could have been obtained either by an inspection by one of the Chambers or an investigator. And the mistakes they made is what tags them as a recent investigation.

[4579] Now, Mrs. Chambers tells you about the visit to P Street. She said Mr. Hiss had been arguing a case before the Supreme Court. He did not argue a case before the Supreme Court until about ten months later, and he never argued but one case before the Supreme Court in his life. He wasn't arguing before any other organization.

The Boucot cottage, she has told you with a perfectly straight face about Mrs. Hiss being there ten days. Mrs. Hiss wasn't there. She has told you about the New Year's party, December 31, 1936, taking place at the 30th Street house. She gives color to it by saying that they were served by the Hisses with port, and she remembers that Mr. Chambers got sick between the front steps and the car.

We had put in evidence the letter that Mr. Hiss wrote Mrs. Hiss on Tuesday, which was December 29, 1936. Before that we have Mr. Thomas Fansler saying that they spent Christmas at their home in New York. They then went up to the Flanders. The boy Timmy came down on December 27 with chickenpox, and had exposed the three Flanders children and the three Fansler children. Mr. Hiss went back to Washington. On the 29th he wrote a letter to Mrs. Hiss and refers to his being sorry that Timmy had exposed the other children to chickenpox, and told [4580] her to stay up over the weekend. Mrs. Hiss apparently did not stay over the weekend, and may I say with reference to that letter—I will show it to you in a moment—it was addressed to her at Chappaqua. It was delivered to Mrs. Hiss the earliest—it is postmarked during the night De-

cember 30, 1936. It could not have gotten to her before December 31.

Dr. Nicholson's records show a home visit to the Hiss home for the boy on January 2, 1937.

Oh, here is the exhibit, Defendant's Exhibit 4 x P—"Mrs. Alger Hiss, care of Donald Flanders, Chappaqua, New York," and it is postmarked December 30, and two numbers, I can't make out the second—"1" something—p. m., 1936.

Now, the record of Mrs. Hiss's testimony: She thought he was left up there for a time, and then she wasn't sure but what he went back with her.

At page 3554 Mr. Murphy asked:

"Q. And did you stay or did you return to Washington?

"A. I said that I stayed about a week or ten days.

"Q. A week or ten days commencing from the time you came up, or a week or ten days after Timmy got taken sick?

"A. Well, about a week after he fell ill. It amounts to about the same thing."

Dr. Flanders' records show that Timmy came down on December 27. If she came back to Washington on [4581] January 1st or 2nd it would be five or six days. It is perfectly obvious the day she got home Dr. Nicholson was asked to make a home visit to see because we have another home visit on January 3 and another one on January 7. So that Dr. Nicholson's records confirm and is consistent with Mrs. Hiss's testimony that she thinks she returned about a week after he was taken ill, and she thinks that he might have gone with her, although she thought he might have stayed. The important thing is, were Mr. and Mrs. Hiss in Washington on December 31, 1936? And did the Chambers come over and attend a New Year's party? Obviously this documentary evidence proves that it could not have taken place.

The other episode that I am going to mention, and then I will conclude what I have to say, except perhaps for a

description of the houses, is the floor-wetting episode. That was fixed by Mrs. Chambers as at the 30th Street house in the summer of 1937. She claims that for two reasons. She claims she came there in the summer of 1937, and she remembers it for two reasons: One was that the baby wet the floor and Mrs. Hiss went and got a linen towel, and that she still had it, and she volunteered, "I am sorry they used it to wash a window or I would have brought it up here this morning"—12 years and a half after.

[4582] Mrs. Chambers testified that both Mr. and Mrs. Hiss were there, and that she remembers it because she saw Timmy standing on the steps in a salt and pepper suit. He never had a salt and pepper suit; and he wasn't in Washington except as shown by Dr. Nicholson's records, on August 15, 1937.

Mrs. Kellogg Smith, Mrs. Hiss, Mr. Hiss thought that he did not return to Washington in the summer of 1937. From the records I would say that they were mistaken about that, and here is what happened: You will remember the exhibit that went in of Mr. Hiss's vacation. It ended on the 14th, which was a Saturday. You could not get from the east shore to Washington except by car. Mrs. Hiss drove him to Washington on Sunday so he could report to work Monday morning, and he did. They very likely left the east shore on Sunday morning, and whether they stayed that night at the 30th Street house or not—I assume they did—but Mrs. Hiss and Timmy went back. Now, is it likely that on the day—and Timmy came home August 30—that that was just the day that Chambers happened to be there; that Timmy had come from camp in a salt and pepper suit on August 15 in Washington?

THE COURT: Mr. Cross, I think we will adjourn now until a quarter after two.

(Recess to 2:15 p. m.)

[4583] Afternoon Session

MR. CROSS: Ladies and gentlemen of the jury: I have dealt with certain episodes testified to by Mr. and Mrs. Chambers. There is one other that I want to mention and

that is the so-called Mercy Hospital episode. During the course of the cross-examination by Mr. Murphy he asked about whether or not the witness thought Mr. Chambers was psychic with reference to some record or some letter to the University of Maryland. That letter is dated May 25, 1937. Now, what Mrs. Chambers testified to was, not that Mrs. Hiss was attending the University of Maryland to take a course in chemistry to be a technician, or to take a course to prepare herself as technician at Mercy Hospital, but that she was attending Mercy Hospital and visited her when they were at Eutaw Place. Now Eutaw Place, as the exhibit which has been marked in evidence shows, was where the Chambers lived from some time in the fall of 1935 until the spring of 1936, more than a year before Mrs. Hiss ever wrote the letter to the University of Maryland.

Now the fact that Mrs. Chambers has got it all mixed up is definite proof to my mind, and I think it will be to yours, that she got some smattering information from somebody—not Mrs. Hiss.

[4584] In the first place, when Mrs. Hiss was attending the University of Maryland they were living at Auchentoroly Terrace, not Eutaw Place. They moved to Auchentoroly Terrace some time in the spring of 1937 after they came from Ferndale and stayed there until October 1937, when they moved to Mount Royal Terrace. Now that is the information that any investigator could get. I could suggest two or three ways that that information could be obtained without being psychic, and the fact that she has got her dates mixed up and has the wrong house, shows that she did not get it from Mrs. Hiss.

The last witness called by the Government was Senator Dulles, who was asked whether or not certain conversations that Mr. Hiss testified to took place.

Now if you recall what those conversations were, and what actually was said, and what Senator Dulles testified was said, any apparent contradiction is not only to be expected of people's memories, particularly a man as busy as Senator Dulles was and is, perhaps one of the busiest

men we have had; going to Europe in August of 1948; coming back at the end of December 1949—what did Mr. Hiss testify to? That on the boat going to Europe, to London, in early 1946 Senator Dulles asked him about if he ever considered leaving the State Department, and whether or not he would be interested, if he was con- [4585] sidered favorably, or whether he would be willing to have his name considered as president of the Endowment.

Senator Dulles said that he did not think it took place because he was just one of several trustees and the board did not take any action until May.

On cross-examination he said that he had it in mind, and I think that in the period of time that the matters that he has had to deal with, great world problems, that he has had to deal with, whether he mentioned to Mr. Hiss that he had in mind the possibility of considering him, along with other people, he might easily have forgotten. But what difference does it make in this case?

Mr. Dulles, later in cross-examination, said that he did speak to him in April, which was before May. Now if I were talking with someone who had a job, a responsible job, and asked him if he would consider the possibility of leaving that employ in the future I think that the most natural thing in the world would be to say, "The reason I asked him is so-and-so," but what difference does it make? Why would Mr. Hiss lie about it?

Senator Dulles did speak to him, according to his own testimony, in April and arranged a luncheon meeting with John W. Davis, Mr. Ballantine, and I think Mr. Wadsworth in May.

The other contradiction, I think, that was sought [4586] to be made out had to do with some letter. Well, there are a couple of letters received by Senator Dulles from this Mr. Kohlburg. At some time there was a talk, and whether the name was mentioned does not matter in the slightest. The matter of the conversation that Mr. Hiss said took place on August 3: Senator Dulles says that the conversation took place, and his testimony is substantially

the same as Mr. Hiss, on August 18th. There is not any question in the talk that Mr. Hiss readily said that he was ready to resign any time that it would be embarrassing to the Endowment, and he did formally resign on December 13th, and the full board met and discussed the matter at dinner and gave him three months' leave of absence with pay, and at an executive meeting in February, after Senator Dulles came back, and after Mr. Bullitt had raised some question at dinner about some testimony that Mr. Hiss had given, they extended it further until May 1949.

So I say the difference between the memories of Mr. Dulles and Mr. Hiss is so infinitesimal that it is the natural difference that you would expect to have two people give if they were both honestly trying to tell you what took place in one case three or four years ago.

The fact that Senator Dulles holds the great position he does, does not add or detract from the facts [4587] that I have just stated, except that it suggests to you how busy he was during that time and no memorandum was made by either of the conversation, and it is to be expected that they would differ in some respects which certainly were immaterial.

Now I am going to discuss the matter of the documents:

Mr. Murphy in his opening statement spoke about the immutable proof of the documents. I am going to meet the argument on that basis, and also on the typewriter, and I am now about to discuss the matter of the documents.

First Mr. Chambers has testified to you that when Mr. Hiss was still with the Nye Committee he gave him eight documents from the Nye Committee. There were thousands of documents turned over through Mr. Joseph C. Green, whose deposition was taken and read to you, not to Mr. Hiss, but to this assistant who was appointed by the Nye Committee as a contact between the Nye Committee and the State Department. Here is the significant thing about Mr. Chambers' testimony about that.

[4588] He was asked, transcript 629, "Were they original documents? A. They were original State documents.

"Q. With State Department seals and stamps on them?

"A. I believe so."

And in the witness chair in this trial he told you the same thing. At the first trial he testified that he turned over the photographs of those to one G. Peters. At this trial he changed his story and stated that he had turned them over—that is J. Peters—that he turned them over to Bill at J. Peters' instructions.

Now I say that as to the Nye Committee documents that is just one more fabrication that Chambers has added to his long string of lies to try to make out a plausible case against Alger Hiss.

Let me tell you, recall to you the evidence which is so dramatic and is so conclusive that Chambers is lying about this entire episode, this entire conduct, this entire connection, that I think you will readily see how Chambers has outdone himself. I refer to the meeting with Bykov. I have already mentioned that Chambers testified first—he testified in the Baltimore deposition that it was in August or early fall of 1937, and here he said it took place in January 1937. Now let us look at the circumstances of that meeting as painted by Chambers. Chambers, [4589] remember, is a literary man and is well aware of the importance of details in telling a story. So with the simple lie he is not satisfied; he has to embellish it.

Now, how did he do it in the Bykov meeting? I have pointed out the difference between his description and that of Wadleigh. But listen to what the conversation was, as narrated by Chambers, after he had met Hiss in New York and gone to Brooklyn and met this man in a movie theatre and come back to the Chinese restaurant. During that conversation Chambers said Bykov asked him whether or not Hiss could persuade his brother to steal State Department documents, and that Hiss had replied that he didn't know —I want to quote correctly:

"Q. Was there any more to the conversation between you three that you now recall? A. Yes. Colonel Bykov asked Mr. Hiss if Mr. Hiss's brother, Donald Hiss, could also procure documents, and Mr. Hiss replied that he did not know whether or not his brother was yet sufficiently developed for such work. Colonel Bykov said perhaps he can persuade him.

"Q. What is there about that that you remember so well?

"A. Because Colonel Bykov spoke German with a very thick accent and the German word for persuade is 'uberreden', and Colonel Bykov mangled the word so badly that I had difficulty in understanding him and I saw Mr. Hiss look [4590] at me curiously wondering why I could not understand the Colonel better."

I am reading from transcript page 150.

At another place on cross-examination of Mr. Chambers I asked him, "Was the request from Colonel Bykov that Donald Hiss steal State Department papers?" The answer of Chambers was, "Yes." That was his downfall. Donald Hiss did not go to the State Department until February 1, 1938, and I don't care whether you say the meeting took place in August or July 1937 or January 1937. Donald Hiss did not even consider going to the State Department, had not been even asked to go to the State Department until the fall of 1937. And to have Chambers say that Bykov said to Alger Hiss, "Can you get your brother to help steal State Department documents," when he was then working in another department and hadn't even been asked to go to the State Department.

Another significant fact that I want to mention is Chambers' story about weekly meetings at the Volta Place and 30th Street house. He testified they took place between 5 and 6 o'clock in the afternoon. During all the time that the Hisses lived at 30th Street and until the fall of—summer of 1938, Clidi Catlett was their maid. Clidi Catlett never saw Whittaker Chambers at any time, except on one occasion, and that was when he dropped in and [4591] Mrs. Hiss asked him if he wouldn't have some

tea. Those weekly meetings between 5 and 6 in the afternoon, with the kitchen downstairs and with Clidi Catlett the one to answer the doorbell; and at Volta Place during the first three months of 1938, with the kitchen five or six feet away from the front door, and Clidi Catlett never saw Whittaker Chambers on any of those occasions, for the very definite reason that they never took place.

Now there is another bit of evidence that I want to mention which touches the situation generally, and that is the testimony of Mr. Geoffrey May, who occupied the adjoining house. Remember that Mr. Chambers' story is that the reason you got the typewritten Baltimore exhibits was to increase the flow, that Mr. Hiss could only keep those documents out overnight, therefore they were brought home, typed by Mrs. Hiss at night and taken back to the office the next morning by Mr. Hiss.

Mr. May said that he never heard a typewriter being used at 30th Street while the Hisses lived there, but that there was a newspaper man who came there and lived there afterwards, who created some annoyance because at night he used the typewriter. That is the house with the thin walls, where there are three houses joined together. If there had ever been one of those 42 Baltimore typewritten exhibits on the Woodstock made at the 30th Street house, [4592] Mr. May would have heard the typewriting. And you have his testimony.

Contrast Mr. Hiss's relation with Chambers and that of Wadleigh, who was the real thief, one of the real thieves, stealing State Department papers, with Mr. Hiss subletting his apartment, and the other contacts I won't now recount. Nothing like that. But Julian Wadleigh, the only time he ever saw Julian Wadleigh was at a dark street corner when Wadleigh passed him the briefcase and when he came back either next morning or around midnight and handed the briefcase back. Wadleigh never met Mrs. Chambers; he was never in their home. Chambers was never in the Wadleigh home. That is the way fellow conspirators treat each other. They avoid being seen together. And you remember Wadleigh's almost unbeliev-

able reaction when Chambers called him up in 1939, after he returned from Turkey, and suggested that they meet at Jackson Place, in sight of the State Department. He says, "Is the man crazy?" Well, Hiss would have been crazy if he had ever had any criminal connection with Chambers and had the contacts that he has told you about.

[4593] Then I want to speak of the effort to break Hiss from the Party that Chambers tells you about which he alleges took place in December of 1938.

Incidentally, in the notes to Mr. Ray Murphy he puts it back in April 1938. That doesn't matter. He does not mention anything about the fear of ambush and staying for dinner and the child's toy rolling pin. Mind you, this story was told when there was no testimony from Chambers that he had ever communicated with Hiss from April, according to his story, until December. He goes there in December fearing an ambush; and Mr. Hiss, he wants you to believe, had a toy rolling pin that he gave him for his little daughter. Ten-year old boys don't have these toy rolling pins. Mr. Hiss didn't know he was coming, and he didn't have any Christmas present for him. That story is another lie that he has told to try to give color to his story.

Up to now I have dealt generally with this story about espionage that Chambers has told. I am now going to deal with documents, and I have arranged in front of you three piles: the typewritten Baltimore exhibits, all of which are typed on the Woodstock except Exhibit 10; the enlargements of the microfilm which are Baltimore Exhibits 48, 50 to 55; the two developed microfilms, Governments Exhibits 11 and 12; and the [4594] underlying State documents from which summaries or excerpts were typed on Baltimore Exhibits 5 to 47, and the underlying documents for the enlargements of the microfilms. I am going to discuss them by groups, the first one being the microfilm.

The production of these papers have a purpose that I think you should have in mind. Chambers had gone to

see Mr. Berle in September 1939 and accused some 30 people of being Communists, including Donald Hiss and Alger Hiss. He had been interviewed two or three times by the FBI I think in 1942 and 1945. He talked with Mr. Ray Murphy of the State Department in 1945 and 1946. He was subpoenaed before the House Committee because of these notes that were in the State Department. And I could trace back every rumor that has ever been passed about Alger Hiss being a Communist to those notes made by Mr. Berle and Mr. Ray Murphy that were placed in the State Department; and, according to Mr. Murphy, the Berle notes turned over to the FBI in 1943.

He is called before the House Committee. He reiterates his charge that Mr. Hiss is a Communist. That is all he says. He is asked about espionage. "No."

Was that a part of his duty, to get information? [4595] "No."

I will deal with Mr. Hiss's reaction in another connection. I am just taking up now the background.

Mr. Hiss challenged Mr. Chambers to repeat that charge out where it was not privileged so he could sue him. If you sue anyone for libel or slander the other side has a right and undoubtedly will plead truth. You can have it tried out before a jury to decide who is telling the truth.

Chambers did make that statement. Mr. Hiss, as soon as Mr. Marbury got back and had a chance to review the matter, filed suit on September 28, 1948, for $50,000. Then it was repeated by Chambers, and there was a supplemental complaint filed on October 7, 1948.

Now, I mention those dates because they are important. By October 7th Chambers had been sued by Hiss for $75,000.

Mr. Murphy has suggested by questions, I think to the experts, that, after all, when his former friend Hiss sued him, of course he came out and told about espionage. Ladies and gentlemen, that is not so. On October 14 and 15, a week after the second suit, and almost three weeks

after the first suit by Alger Hiss, Chambers went before the grand jury that indicted [4596] Alger Hiss and lied three times. Is that a man who believes in a God of mercy, in a God of love? He had been sued for $75,000, and he lied, or else he told the truth. Which was it? We say he had told the truth. He would have you believe he had perjured himself when he said there wasn't any espionage as far as Hiss was concerned.

He lied so far as Wadleigh was concerned and some of the other thieves, but that was October 14 and 15 before the grand jury. Now, why didn't he tell us then? No.

Answers were filed in the case on October 25. The day the answer is filed you can start to take a deposition. On the very day the answer was filed notice was given to start to take Whittaker Chambers' deposition in Baltimore on November 4, and his deposition started on November 4.

He was asked about his relation; he was asked by Alger Hiss's attorney: "Produce a scrap of paper or anything that you ever received from Alger Hiss to justify a claim that he was a Communist."

I will comment on the improbabilities of a normal, sensible, sane person taking such a course if he is guilty—demanding, bringing suit, pressing. But now Mr. Chambers is two days under examination [4597] in the Baltimore deposition, and then it is adjourned on November 5 to November 16. On November 14 he goes with Mr. Levine over to Mr. Levine's mother's home, and out of the dumbwaiter shaft an envelope in drawn out which Mr. Chambers said he gave him around May or June of 1938, but which Mr. Levine said was given to him in 1938. He did not name the month. Mr. Levine did not know what was in it. When it was pulled out the dust fell on the floor, and they went into the kitchen, and Mr. Levine went back to sweep up the dust, and when he got back Mr. Chambers had opened the envelope.

Did he say "I found the papers"? No. Not a word about what was in it. And Mr. Levine told you he did not

know what was in the envelope when it was given him and he did not know what was in it when it was taken by Whittaker Chambers on November 14, 1948.

He does not come in on the 16th and say "I am ready to go on with my deposition; I have found the papers; here they are; and I have also not only found the papers but I have found some developed microfilms; I have found the enlargements; here they are, gentlemen; you asked for them; you are going to get them."

He asked that his wife testify, and she testified on November 16 and the morning of November 17. Whittaker Chambers says: "I was upset. I was in a turmoil," [4598] or whatever the expression was. He was trying to think up a story that he was going to tell when he produced them on November 17th. Mind you, he didn't produce them all. He didn't produce these two microfilms and he did not produce any enlargement. These enlargements, of course, were made later, but he did not produce these two developed microfilms and the three undeveloped microfilms, which are immaterial here because they have nothing to do with the State Department; they were bad in some respects, but, at any rate, everybody admits it has nothing whatever to do with any State Department documents. He did not even tell his lawyers that he had those papers. He took them down to his home, put them in his home for a while, and then he went out and got a pumpkin and cut the top out and put these three others in the pumpkin, and you know the story of how the investigators came up and found them at 10 o'clock at night.

Now, why didn't Whittaker Chambers produce the developed microfilms when he produced the others? I will tell you why. He wanted to be sure what was on these microfilms, and that there was nothing inconsistent with any of the other papers that he produced. He did not even tell his attorney. Think of it.

There is another reason, and that is every [4599] paper in this group of microfilms could have been used against Francis B. Sayre just as well as against Alger

Hiss. And at one time he was going to expose Francis B. Sayre, accuse him falsely; and there is no one who has greater respect for the American people than Mr. Sayre; and you heard Mr. Cowley's testimony from the stand on December 13, the talk he had with him about Francis B. Sayre.

If that conversation took place how is Mr. Murphy going to explain it? He suggests that maybe he was hard of hearing. You saw Mr. Cowley on the stand and you did not see him having any difficulty hearing me from back some distance from him, or hearing Mr. Murphy. And in 1940 when Mr. Chambers asked for an interview to talk with him about an article that he was writing about those who jumped off the Moscow Express, he did not mention Alger Hiss.

Mr. Murphy suggested maybe it was Alger Hiss he was talking about.

"Oh no, it could not have been because of what I said: What? Francis B. Sayre? The High Commissioner to the Philippines? Woodrow Wilson's son-in-law?"

If that conversation was had with Cowley in December 1940—and I say that the evidence clearly is that it did because Mr. Cowley made a memorandum in [4600] accordance with his custom. Did Mr. Murphy call for the memorandum? That conversation took place just as Mr. Cowley told you, which means that at that time he was falsely accusing Mr. Sayre, and he had not made up his mind who he might need and what evidence if he was ever called upon to make good any false charge.

Now, with respect to the microfilms, taking the enlargements—I called your attention before about the numbers that appear in the left hand corner—1, 2—"2" is not very clear—3, on consecutively to 58. There is not a single number missing. 1 to 58.

What does Chambers say about their method of photographing? When the man takes the camera and takes a document to microfilm it, he takes a number and places

it in the lefthand corner superimposed on the sheet, and when it is photographed it looks as if it is a part of the sheet.

He also says that that consecutive numbering 1 to 58, means two things—and this is uncontradicted— means two things: one, that it is one photographic operation—whoever took 11 and 12 did it all at one time.

He said it means a second thing. It means that they all came from one person. Every document here came from the same thief. And if you can [4601] put your finger on the thief who stole a single one of the 58 pages you have the thief who stole all the 58.

The first: it is a carbon copy—not the original—the original went to Mr. Sayre's office—signed by Hawkins. It came from Trade Agreements. Hawkins was the head of Trade Agreements where Wadleigh was working and was admittedly stealing papers. The only possible claim that could be made to meet that argument is that with the original went along a copy to Mr. Sayre's office. As to that we have the testimony of Mr. Hawkins himself, the practice of that department and others, that the practice was not to send along a carbon copy of that. If that is so that was microfilmed from a paper in Trade Agreements.

And I am going to point out to you certain other of these documents which are copies. They are not only copies but they are copies of a second typing. Those of you who know anything about comparing papers, particularly if you know about the procedure in the Government, in the State Department, of authentication, know that you have to have a carbon of the original typing or you would have to read every word. There are certain ones of these papers I will show you that are carbons and admitted carbons of a second typing. It was a case where Trade Agreements needed additional [4602] copies and they had a second typing and what they photographed is a copy of that second typing.

Your Honor indicated you wanted me to stop at three o'clock and this is a good time.

THE COURT: As I indicated to you I have to attend another courtroom on another matter and I will take about ten minutes; maybe a little longer.

(Short recess.)

MR. CROSS: Taking up again the enlargements of the microfilms I told you that Mr. Hawkins said it was not his practice to have a carbon of these go along. If you look at the picture here it is a larger sheet, a photograph of the carbon on a larger sheet. You would destroy the very purpose of that chit placed on top of the file so you could see the other papers if that were so. As to the next one, this is the Darlington memorandum. You have Darlington's own testimony he did not, and it was not his practice, to send a carbon of that along to Mr. Hawkins to send to Mr. Sayre. Page 1 of that is a carbon of the second typing. If that carbon was going to Mr. Sayre you would send a good carbon, not one made up for the office working file.

The memorandum here, Exhibit 51, is a suggested reply to the German Government prepared by Mr. Darlington. [4603] This is not a copy of the first typing. It was the practice to send copies of this along so that each office could take one off and have an authenticated copy, and the German Ambassador a copy, one to send on to his own government. This is a carbon of another typing.

The next exhibit is the German Aide Memoire. The State document of this has the file number on it. The practice was to have two come from a foreign representative. The first one was indexed; the other one was not. Here is the indexed one (exhibiting). The carbon copy stayed in Trade Agreements. Mr. Feehan said that this exhibit of the German text was either a photograph of the original or of a carbon. Then I called his attention to the index on the original and he said of course if the index was there before a certain date then the microfilm must have been of a copy.

That original and the carbon were received by Mr. Sayre on November 23, 1937. They were returned by Mr.

Hawkin's office on January 8, 1938. The original went back. The carbon stayed and that was what was microfilmed.

The next is the Aide Memoire, Exhibit 53, and that is the document dated July 21, 1937. That was something that took place back six or seven months previous and when Trade Agreements were working on it [4604] they would have sent for that copy as a historical background.

For the various reasons that I could go through here and point out that these copies could not have gone to Mr. Sayre's office. They were copies that were in Trade Agreements where Wadleigh was working. They had a working file that stayed for months in Trade Agreements and they were papers that Wadleigh got out and had microfilmed, which accounts for all the pictures here except three and I am going to deal with those now.

There are three cablegrams, but numbered with only two exhibit numbers, 54 and 55. Those each bear the stamp January 14, 1938, Office of Assistant Secretary of State, Mr. Sayre, and the pencil initial of "AH"—all three of them; the only documents that are in this case with the stamp of Mr. Sayre's office with Alger Hiss's initials, and how did they happen to get with this bunch?

You will recall that Wadleigh testified in the latter part of 1937 he was taken out by Chambers to meet the boss, Sascha. They took him to a restaurant. They accused him of holding out; that he had not been passing over anything from Trade Agreements that was worth anything; they wanted something hot.

He said, "Give me another chance."

[4605] The latter part of 1937—January 14, 1938. Wadleigh admitted that he stole every paper that he could get away with stealing. There were other times when he said that he only took what came over his desk, but I asked him a question, if he did not take any paper he thought he could get away with and not be caught, and he said "Yes."

He also was picking up a cable wherever he could get it and passing it on. He also testified that these documents

he would consider a rich find. Wadleigh was trying to ingratiate himself with Sascha and with Chambers and stole these three papers either from Mr. Hiss's table or outgoing basket, or Mr. Sayre's.

Mr. Sayre, it happened, was absent from his office that afternoon. Wadleigh had access. He would not have excited suspicion if he had come into Mr. Hiss's office. He had been in there a number of times. He had a well developed, as Darlington said, sense of curiosity; frequently would be found by Darlington sitting at his desk, but always would have a plausible excuse. Wadleigh stole those three papers. They were all one photographic operation. They were all consecutively numbered and they all came from one thief. The first 48 pages could not have come from Mr. Sayre's office and there is only one answer; [4606] they all came from the Trade Agreements file, plus the three that Wadleigh stole on January 14th.

Can you imagine a sensible sane individual writing his initial, taking a stamped copy from Mr. Sayre and giving it to Chambers? Why, you might as well make an affidavit that "This comes from me."

So I say with regard to the microfilm copies Wadleigh stole every one of those papers. Those papers were retained in a file that Chambers as late as December 1940 would pull out and use against Francis B. Sayre if his false accusation had ever been challenged when he said he is head of a Communist apparatus in the State Department.

I will next take up the four pencil memoranda. Every one of these handwritten notes deal with a matter that Mr. Sayre said he was interested in. Mr. Hiss was in the habit of reporting to him orally both in his office and at lunch. He made memoranda, not to give to Mr. Sayre but to use for his own information. Take a look at Baltimore 1, M28. Where did it come from? What is the date of it? Chambers was shown that document and asked what it meant, and he said he didn't know. What do you think, if that was passed on by Chambers—by Hiss to give to

Chambers to send to the Soviets, what would they think it meant? [4607] Not signed. The original is Loy Henderson. M28 meant something to Alger Hiss. It means Moscow January 28, and he didn't even put the signature because he knew from whom it was.

At that time the papers were filled with the Rubens-Robinson case. I put in the New York Times article January 25, 26, 27. It was a matter—it was a test case whether or not Russia was going to live up to her pact that she had entered into, that if any American citizen ever was arrested in Russia he would have a right to be interviewed by the American representative; so that they wanted to find out first, "Are these American citizens?" and trying at that time to see if the Russians were going to live up to their agreement. For a great period of time they couldn't even locate the original of that paper. And because it is different so much from some of the other papers Mr. Hiss thought at first, some time ago, until he saw an enlargement, that it might have been a forgery. Would he have readily admitted three of them and questioned whether or not No. 1 was a forgery if he was trying to hide anything? This is a matter that Mr. Sayre was interested in, and when shown the original documents, underlying documents, which he was not shown when he was brought in before the grand jury, after he had returned from Europe, he [4608]did not understand what the background was, and when shown these newspaper articles and the cablegram he said it was a matter that he was interested in.

There was a great lot of mystery here about the Library of Congress Law Division, L-i-b C-o-n-g, Law Division. And then, when the man from the Passport Division, Mr. Lucas I think it was, was on the stand, he was asked about investigating. "Oh," he said, "that was Mary Martin's address. She worked in the Library of Congress." The mystery was all gone. Mind you, this is a cable that was sent to Russia and was simply sent back here by a cablegram because that was a case that Mr. Henderson knew that the Department wanted to be kept informed about.

Exhibits 2 and 4. Exhibit 2 relates—Exhibit 2 and 4 both relate to the Neutrality Law. At that time the Chinese-Japanese conflict was on and there was a question as to whether the Neutrality Law of the United States would be held applicable by the President of the United States. These two exhibits, one is dated March 2nd and the other dated March 11, 1938. On March 15 the President of the United States decided, as was announced by Secretary Hull, that the Neutrality Law would not be applicable. It was one of the most important decisions that had to be made at that particular [4609] time by the State Department. An Assistant Secretary of State not being interested in a matter like that? He did not have to deal with it, but of course he was interested in it.

Comment was made about two different colored pencils. Well, there are other exhibits, they are not laid out here, where Dr. Hornbeck used two types of pencils, two colored pencils that Mr. Hiss used. How incriminating that there were two colored pencils, when you have two colored pencils on your desk.

Mr. Hiss said that the first part of this, that Mr. Murphy called cabalistic, refers to the airplanes. He noted that, and then later the whole story, when he went through a second time, was written in black pencil. Now, what was the point about mentioning the number of airplanes? The attitude of France was of importance as to her attitude toward the Neutrality Law. This cablegram indicated that France was stretching on the interpretation. The rule was that they could fill existing orders, the rule of International Law, without violating neutrality. Here Russia—I mean France, according to this cablegram, was shipping so many new modern planes. That is the only point as to the attitude of France.

Now that exhibit is important in what it does [4610] not contain. It is in two sections. Mr. Murphy read the first underlying document. I said, "Aren't you going to read the second?" He said it hadn't anything to do with it. It had this to do with any information that anyone was

seeking information for the Soviets. It said that there was the general feeling that Japan was going to attack the northern provinces of China. What more vital information could the Soviets want than that information? Not a word about that. It didn't have anything to do with neutrality.

4 is on the same subject matter, with two different colored pencils. I shall not deal with that further. Here is—Mr. Hiss carried over even when he went with Dr. Hornbeck. Black pencil, blue pencil. Here he is still with Mr. Sayre—AH, and then he writes ISS to spell his name out in black pencil. So the fact that he used two colored pencils here means absolutely nothing.

The third of these relates to the London Naval Treaty of 1936 and it has to do with Chatfield. And to show you that the first part written in blue pencil does not mean anything, Mr. Murphy again indicated that he thought that Chatfield was our Naval Attache. It says Chatfield NA. Whereas down here (indicating) of course it refers to Lord Chatfield, as to the attitude of the [4611] Admiralty.

On March 31, 1938, and this is dated March 3, 1938, the United States, France and England all sent a note dated the same day to Japan invoking a clause of the London Naval Treaty that permitted the signatory powers, if one of the parties violated that Treaty, to build larger capital ships with larger caliber guns.

This was under consideration at the time; they were having conferences in England, and, of course, Mr. Sayre was interested in it.

So you start with the evidence clearly demonstrating that every one of these had to do with matters that Mr. Sayre was interested in; and Mr. Hiss, when he came to review the cablegrams, would have summarized them if he wasn't going to send them in, and reported to Mr. Sayre either in his office or at lunch.

Now, the type of these documents: Two of them are on just plain ordinary pad paper like that with no letter-

head. (Indicating) The other two have the same as what I showed you before—"Department of State, Assistant Secretary."

I call attention to the fact that they are all creased. Not only that, but they were creased before the letterhead was torn off. Did Hiss tear it off?

[4612] If he is willing to give him his own handwriting he certainly would not object to having the office where he worked on there. The truth is that the man who tore that off was afraid that he might be caught with that on his person, and he tore it off.

Chambers testified that each one of these memoranda he put in his pocket. They may have been folded at that time. They may conceivably have been folded by Mr. Hiss if he took them out to lunch to report to Mr. Sayre, because he said that he never took out an original when he went to lunch.

As to his disposition of these memoranda, Mr. Murphy asked him—and I will read that—he was asked at page 3089 a question as to what he would do with the office memoranda when he left Mr. Sayre's office.

He said, "There is one assumption. First I may toss them in his basket by his table"—that is Mr. Sayre's table —"and not take them with me as I left. I think normally I simply carried them back in my room and either crumpled them up, threw them in the basket without bothering to crumple them up, tore them across, in so far as disposition. I might even have saved them for a short time on my desk if I thought I would have any use for them as aids to myself in writing a memorandum. But normally they [4613] were disposed of in one of the ways I have described—left with the papers, tossed into the wastebasket, either torn up or crumpled, or just tossed in."

I am passing on more rapidly than I would like to because I want to cover some other points. I am now going to talk to you about the Baltimore typewritten documents. I will take out Baltimore 10 because admittedly,

that was not typed on the Woodstock typewriter. This is the document the original of which I won't even dig out, but the only stamp that it has on it is the "Far Eastern Division," and it went to the head of that department. That is on Government bond paper with a watermark on it, and it is typed on some other machine.

Mr Chambers said, "I think I may have gotten that from Harry White." He forgot that perhaps there was some record of distribution as to where that MID dispatch went, and I tell you, if you will look at State No. 10, you will find it did not go to the Treasury Department. Harry White never saw it in the ordinary course of business, but it did go to Far Eastern and only to Far Eastern. It did not come to Mr. Sayre's office.

Now, what does that prove? That proves, and I will point out to you various other documents that prove the same thing, that there was a thief in the [4614] Far Eastern Division. I do not know who it was, but it was the person who stole Baltimore 10 and gave it either to Carpenter or to Chambers, and it eventually landed up with Chambers even if it was given to Carpenter.

I am going to try to do this from memory, but I will call to your attention Exhibit 11. Exhibit 11 is a summary or excerpt from 16 underlying State documents. In other words, you had to have 16 documents, or information copies of 16 different cablegrams to have written the four pages that made up Baltimore Exhibit 11. No. 2 on this list did not go to Mr. Sayre's office. Now, if No. 2 did not go to Mr. Sayre's office and wasn't available to Mr. Hiss, how in the world could he have typed the full four pages of Exhibit 11? Whoever did it had to have all of the underlying documents. And where did you find all the underlying documents? From the schedule you will find every one of 11 went to Far Eastern Division.

I will take another one, 42: 42 is only two paragraphs. The second did not go to Sayre's office, did not go to Hiss; he did not have it. Whoever had that could type Exhibit 42. 42, both of them, went to Far Eastern Division.

Exhibit 13 is the memorandum, the short memorandum of Jones. You recall half of it was typed and [4615] the other half in longhand. It refers to the Yokohama reports that Aikawa is scheduled to sail. Now, that referred to a short Boyce report dated January 18, 1938. There was a lot of evidence about this, and you must have wondered, well, what is this all about? There were two Boyce reports, a long Boyce report that Jones wrote a long 13-page memorandum about, and there was a short Boyce report of January 18 that the very context shows that this referred to almost word for word, tells about the sailing and the $300,000,000, and so on, with the words and everything else. Everybody will have to admit that this refers to the short Boyce report and that alone. That is Exhibit 13. That document was attached to the short Boyce report. The short Boyce report did not go to Sayre's office. It originated in Far Eastern. That was copied from the Far Eastern Division.

Now, the answer will likely be, "Well, that accompanied a memorandum of Dr. Hornbeck" and brought here on the stand were three papers clipped together, the original of this, the short Boyce report, and Dr. Hornbeck's memorandum. And Dr. Hornbeck, by its very contents, shows that it refers to the longer Jones report.

Also the witness said that he did not have [4616] these papers; he said he might have seen them back in 1938, but the matter was first called to his attention last June, I think, May or June; it had been to the FBI; the testimony was that there was a file circulated through the various offices; they were simply clipped together, and then when they got down to the filing room they were stapled together, and the person there simply stapled them by context.

Without having the time to devote as much as I would like to this, if you will look at the staple holes of those three papers that are produced here and marked as an exhibit by the Government, 13, you will see all the staple holes that are in there.

Mr. Murphy asked the witness: "Do they match up?"

I will ask you if you can match them up, and if they have not been taken apart, how does it happen that there are so many staple holes? If they were originally put together in order that way they would not have any holes.

Now, here is the Jones memorandum, the original of it. Here is the short Boyce report, and it did not go to Sayre's office. That could only refer to the short Boyce report. However, Dr. Hornbeck says, "I feel that you will wish to have knowledge of the facts [4617] and appraisal given in Mr. Jones' very informative memorandum hereunder based on Consul Boyce's report."

Well, of course everybody knows that this refers to this long report of Boyce of January 6, 1938. That is what the long Jones memorandum had to do with. No one would call this little paragraph a very informative report.

Now, there is another thing that is significant. This is Exhibit 15. Do you notice the words "most interesting report"? That is not on Exhibit 15, Baltimore Exhibit 15 —"A most interesting report." Yet the typist put "PAH", which means the office, Dr. Hornbeck's; "SKH" is the dictator, Dr. Hornbeck, and the stenographer. A Chinese copy, and yet they did not put "A most interesting report."

Mr. Murphy asked, well now, Mr. Feis's name appears after Mr. Sayre's. But you have heard the testimony here of Mr. Duvall and others that the order there did not mean that it went in that order. And if you will take the long Jones memorandum, it went to Dr. Feis's office on February 11—and that is what this related to—February 11; and it went to the Secretary of State's office, February 15, and it went to Mr. Sayre's office February 16. So [4618] that when Mr. Feis wrote that on there it was some time between February 11 and February 15.

Now, when it was typed it wasn't on there. Dr. Hornbeck said that that related to the long Jones memorandum. He also said that he always sent a copy to Far Eastern. The carbon copy of that is the basis for Baltimore Exhibit 13. This is the long Jones report—"A most interesting re-

port." If you will read the contents there can't be the slightest question about it. February 7, February 11, Secretary of State's office—I mean Mr. Feis's office; February 15, Secretary of State; and the note here "Assistant Secretary of State February 16."

[4619] And there are still others about the typewritten documents showing that at least five of them never went to Mr. Sayre's office, which would mean, if you count up the underlying documents, I think about 20 out of some 72.

Now the significant thing about this schedule is that an information copy of all of these documents that form the basis of these Baltimore typewritten documents, either went to, Trade Agreements, where Wadleigh was stealing papers or FE where we know the Baltimore Exhibit 10 was stolen, and all these others you can trace back to Far Eastern and only Far Eastern and one other office, Dr. Pasvolsky's. He had an office in the Trade Agreements suite. Wadleigh testified, I am sure to Mr. Murphy's great surprise, that when he was given documents to look over by Dr. Pasvolsky, even before he started to work for him, he stole them and gave them to Chambers. Some of those documents, including one of the handwritten documents, is dated after March 9, 1938. Wadleigh left this country on March 9, 1938. Did he leave a successor?

He testified that he was told not to deliver papers some two or three weeks before he left. He also made the surprising statement that when he wanted to leave he had difficulty locating Chambers and Carpenter. What was the occasion for him getting in touch with Chambers and [4620] Carpenter? We know. That he would not leave, and they would not want him to leave, a place he had stolen documents from for two years without having someone, if he could be found, to replace him.

I am not making any accusation, but if you will look at Mr. Berle's note, right underneath the Wadleigh name appears Mr. Lovell, and Chambers himself volunteered the name of Mr. Lovell and he said he was such an open Communist that he could not use him; an open Communist with

the State Department that the Communists could not use? I don't know whether Lovell or somebody else but there was a successor to Wadleigh in the Trade Agreements Division and there were some 4 documents that came from Dr. Pasvolsky's office and Trade Agreements after Wadleigh left.

So I say that those documents came to Chambers or to Carpenter from one of three or more sources—none of them Mr. Hiss or Mr. Sayre's office.

I am going to speak now of the typewriter. The Government expert said that in his opinion these Baltimore exhibits were typed on the Woodstock typewriter. Undoubtedly that is a good opinion. As I told you in the opening, we consulted experts, and in their opinion they thought so too. But it is not the question of what typewriter was used but who the typist was. That is the [4621] question. And if some of those documents, as I pointed out, could not have been typed by Alger Hiss—Woodstock or no Woodstock—they did not come from Alger Hiss. The Government, by putting on George Roulhac apparently concedes that the Woodstock typewriter went to the Catlett family at some time, as he puts it, about the middle of April 1938. Let me read you the question and answer upon which that is based. It is at page 4314:

"Q. Now, Mr. Roulhac, did there come a time at all when you saw a typewriter in the P Street house?

"A. About three months after we lived there."

He produced a lease that was dated January 17, 1938, and I won't take the time to discuss whether they moved in before they had a lease or had, for a time, kerosene and used gas, but take January 17th. The last one of these Baltimore exhibits is dated April 1, 1938—the original of it. So that whoever typed those documents had the typewriter after April 2, 1938.

Now the Catletts, the two Catlett boys have both testified that it was on a move. Pat said it was on the move from 30th Street to Volta Place. Mike was not sure which house it was but it was on a move. The testimony is that

the typewriter, along with a gramophone, together with some old clothes, a tie rack, was given to the Catlett [4622] boys by Mr. and Mrs. Hiss. That is the time when you generally dispose of things. They had bought a portable typewriter in the fall of 1937. That is not disputed. As a matter of fact, there is a standard on that that is marked in evidence, the Greek mythology school typing at some time I think in 1937 on that portable. Now, whether it was given to them on the move and they had it for a couple of weeks where they lived before they moved to 2728 P Street or not is immaterial. It is a question of who had that typewriter in early April or thereafter and who could get it that counts.

Now can you imagine a memory so good that you could say, after having served undoubtedly honorably in the Service all the years since 1941, and then re-enlisted in the Service in the Aleutian Islands, to come here and say "About three months." How does it happen to strike it on the nose—"About three months"—if he had said two months, the Government's case would have been out the window because they had to have that typewriter or else get it back from the Catletts to type anything as late as April 1, 1938.

Do people's memories fail as to when they dispose of a typewriter? As a matter of fact, all Mr. Roulhac said was that he saw it in the hall. He did not see it brought in. The Catletts who said they got it said they [4623] got it on the move two or three months earlier. I don't know how long it had been there. He puts it in the hallway where he saw it. He had been there every day. Whether it had been in a closet for a time, and I have asked where it was first put, but all he said was, that is the first time he ever saw it,—"about three months"—and if he had put it two months, there would have been 20 papers that were typed after that date.

So I say that where people associate events by some other event, like moving, rather than by calendar years, the Catletts are more trustworthy in their memory than

Sergeant Roulhac, where he only tells you that he saw it—he had nothing to do with getting it—he first saw it about three months after they had moved.

Now the idea or the suggestion, if any such suggestion is ever made, why the Hisses wanted to get rid of this typewriter, to hide it or conceal it by giving it to the children of their servants to hide, how does Mr. Chambers dispose of a typewriter that reminds him of the past? He takes it and brings it all the way from Westminster and leaves it on a streetcar. Undoubtedly they would not have done anything as bizarre as that, but they certainly would not have given it to their colored maid's children to have all the people coming in there and banging on it.

[4624] I say, well, how did Chambers know about that? How did he get it? Anybody? He did not do it himself, you can bet your life on that. He gets through confederates, anybody who can get through confederates and steal top secret documents from the State Department would not have much trouble locating a big office typewriter. Now I can suggest there might be several ways. I can suggest a way that he could have easily found out. Suppose someone had called up, or come over, when he knew the Hisses weren't there, and asked Clidi, saying that they were a typewriter repair man and had come to repair the Woodstock typewriter. What would she have said? "Why, they have given it to my boys." He wouldn't have much difficulty locating Clidi's place, and with that open house, with the cellar there, I mean the closet; with all the people coming and going, all the people living there, and their friends, and the dances and all. How easy. Am I talking through my hat? Have I got any basis for that?

I want to read you a letter. These pictures here, that is the closet where the typewriter was hidden or was kept for a time. I want to read you a letter that Mr. Chambers wrote signing it "David Chambers, July 9, 1938," to Longman Green, New York publishers, who had made a contract with Mr. Chambers to translate a book, and he [4625] says, July 9, 1938, "I have been in Washington for a while on

another project, but shall return to New York soon when, if you think necessary, I can see you."

I specifically asked him about all of his activities during the time when he was claiming that he was hiding out with a gun ready at hand. There was nothing that anyone could possibly call a project.

This envelope, curiously enough, was given, according to Mr. Chambers, to his wife's nephew in either May or June 1938. Where was he in May? He was down in Florida. It was given to him sometime in the summer of 1938, just before that letter. And this project was making a file against Alger Hiss, just as he told Wadleigh about his information that he had accumulated against Charles Darlington. You recall Wadleigh said: Why, I asked him, or he was telling me something about Mr. Darlington, and I was so surprised that he knew all of the background, and I asked him something about it, and he said, "I make it my business to know all I can about people."

I will get the exact quotation because I think it is important and I don't want to misquote.

He was getting a file on Charles Darlington as a cover, if there is ever any finger of suspicion pointed towards Julian Wadleigh as the thief of the papers in [4626] Trade Agreements. For the same reason, he was getting a cover or file against Francis B. Sayre. These microfilms. He was getting one against Alger Hiss. 1658:

"Well,"—this is the answer.

"Q. No. Please give the substance of any conversation he had, and if you cannot differentiate give the substance of several conversations. A. Well, one such conversation was one in which he started telling me a lot of details about Charles Darlington, his background and career and all the rest, and I said 'How come you know so much about Charlie Darlington?' And he said, 'Well, we naturally like to know about a person who is your roommate so we have made inquiries from our friends in the State Department and that is how I got the information.' "

He did the same thing for Alger Hiss that he lived with; he did the same thing for Francis B. Sayre.

I am purposely moving along fast, and I would like to—in some of these topics do not judge the importance that I attribute to them by the amount of time that I am spending on them; if you saw the pages that I am omitting here you would appreciate that you can't judge how long it is going to take you to make your summation, and I promise you I am going to finish this afternoon, certainly within ten minutes after the usual [4627] closing time, and I am rushing on for that reason.

I am now coming to the matter of motive. At the outset I want to point out that the Government has failed entirely to suggest a motive on Mr. Hiss's part to commit espionage in 1937 and 1938, unless it be this vague suggestion that he was a Communist, and I will deal with that later. We have not only met the evidence put in by the prosecution, we have gone further to prove the motive, the absence of motive first on the part of Mr. Hiss.

In considering Mr. Chambers' motive I want to analyze —I have mentioned one of them—two demonstrable false accusations which he made, one against Lawrence Duggan and the other against Mr. Sayre. Chambers admitted out of his own mouth in substance that he had falsely accused Lawrence Duggan when he told Mr. Berle in September 1939 that he was a member of the Communist Party; and then he had all that reference to Noel Field and Lawrence Duggan under the special charge of Hede Gumperz, who is now Mrs. Massing; and then when Noel Field went to Europe and went to the League of Nations in 1936 Lawrence Duggan was left in her special care and any information she wanted she got.

After Mr. Duggan's unfortunate death Mr. Chambers made two public statements and he said he had no direct knowledge and no personal knowledge that Lawrence Duggan [4628] was a Communist, and he never had passed any papers.

And about Mr. Field, lest I find myself unable to deal with it as much as I should, let me call to your attention, and remember this in considering Mrs. Massing's testimony: Mr. Noel Field left the State Department before Alger Hiss ever went there, and yet, according to the story as related by Mr. Rabinavicius, which is not denied, Mrs. Massing said that Mr. Hiss and Mr. Noel Field were in the same department, or referred to them as in the same apparatus in the State Department in the latter part of 1935. Mr. Hiss didn't go there until September 1936.

I have already referred to the fact that Mr. Chambers made a memorandum of his talk with Mr.—Mr. Cowley made a memorandum of his talk with Mr. Chambers. Why would he make an accusation against Francis B. Sayre, that he was head of a Communist apparatus in the State Department, and not mention Mr. Hiss's name at all? Why would he make the false accusations against Lawrence Duggan and wait until his untimely death to retract?

Chambers' motive was a bad motive. I think it is apparent that no one who has a good motive has any occasion to lie to you ladies and gentlemen sitting in this case, and if Chambers was prompted by a good motive he would not have to lie about Peterboro, about Erwinna, about [4629] Long Eddy, and about a number of other cases that I can't tell you about. You just don't do it. His motive was dishonorable, and I have already pointed out that you can't say that he was sued by Hiss and therefore he came out with this information. He was sued by Hiss before he lied to the grand jury on October 14th and 15th.

I have already told you that he lied about the meeting with Bykov when he spoke about Alger Hiss trying to get his brother to steal State Department documents a year before his brother ever went to the State Department. One lie after another is certainly demonstrative in this case and speaks volumes as to the character of the motive of Whittaker Chambers. And I say to you ladies and gentlemen, if that is so, you can't rationalize Chambers' action. If it was a suit, why didn't he come out and say what he did to the grand jury on October 14th and 15th, which was

a lie so far as Wadleigh and the other thieves were concerned? It was true so far as Hiss was concerned. Why did he wait after he was asked to produce anything he had? His own testimony with respect to that was—and I will read it to you as soon as we can get the volume—was that he in substance was forced to it. Forced to it? By the suit? Not by the suit. Very likely he thought that this was a bluff and that Hiss was not really going to follow it up, but when he found the [4630] vigorous prosecution he went out and dug up the file that he had on Hiss and that he had on Sayre, and very likely had on somebody else from Far Eastern. Put some of them together, the handwritten notes, the typed documents, produced them, didn't tell his own attorneys about the microfilms; produced these later.

On page 207 on direct Chambers said:

"But I had now been forced into a position where I had no choice but to introduce those documents into evidence. And I do not remember exactly how I phrased my decision, but I think that is the substance of it."

What forced him? Either it was the fear that he was going to have a judgment against him in that suit or else Dr. Murray's explanation to you is right—that these people, even when they frame someone, they draw it out, they draw it out; they give one bit of information at a time.

Now I want to say a few words about the psychiatric testimony, and this is one matter that I have notes, rather extensive notes about, but I am going to shorten it up.

Remember, these experts were called to testify simply as to their opinion upon assumed facts as to the mental condition of Mr. Chambers.

[4631] They were carefully not asked and they would not have been permitted to testify as to any facts or opinions. They were not asked, "Well, that does not explain the typewriter." If I had asked any such question as that Mr. Murphy would have been on his feet in a moment.

Those experts were not here to tread on your toes, and they were careful not to; and his Honor held that the evidence relating to mental condition was admissible.

The diagnosis was given; and there was direct, cross-examination, and extended cross-examination on that so recent that I do not have to recall it to you.

The testimony is that he is a psychopathic personality, and the instances that were cited you will recall. Both Dr. Binger and Dr. Murray told you about that, and the reasons for their opinion.

The testimony, to my mind, was important and material, which I thought might be helpful to you in trying to rationalize the action of Mr. Chambers who did all the things that have been testified to here, and as to which there is no dispute: the pumpkin papers; the withholding of a number of these documents; the various lies he has told either to you or to the grand jury, and I say that so far as Alger Hiss is concerned he lied to you just as he lied to you on direct about Baltimore 10. The testimony is about the action of a [4632] man who is almost unexplainable. The hiding of papers in the pumpkin under the circumstances after he had had it in his house. No reference to hiding the charter in the charter oak, or any of the other instances suggested by cross-examination is comparable to that. Could you rationalize anyone deliberately writing the "Play for Puppets" and a lot of other actions that he did?

We have introduced the evidence for whatever weight, as I am sure his Honor will instruct you, you think it is entitled to have given to it; and if we did not think it was important we certainly would not have brought two experts as busy as Dr. Murray and Dr. Binger are, here, particularly when they are not charging for their services.

Now, I say that there was a break between Hiss and Chambers. Hiss said he knew he would never pay him; he was a deadbeat and he was through with him. A psychopathic person is one who is easily influenced to turn against one and to use the methods that have been adopted here.

But he really did not do that until he had to pull out the files.

I have spoken about these files, the reference to Mr. Darlington, and how these papers were finally produced.

[4633] In coming to a close, just picture for a few minutes by contrast two men: Alger Hiss lived a normal life of an American boy, and his record in school was good; he worked on the farm, and he attended church. Chambers was brought up in a home that was skeptically indifferent to religion.

In 1922 Chambers was writing the "Play for Puppets" that he knew would offend Christians; Alger Hiss was entering Johns Hopkins University, from which he later received an honorary degree.

In 1926 Mr. Hiss graduated from Johns Hopkins, and in that year Mr. Chambers became a fanatical Communist. His brother had asked him to enter into a suicide pact with him, and he was writing such poems as Tandaradei and October 21, 1926, speaking of joining his brother in death.

In 1929 when Mr. Hiss was in the Harvard Law School Chambers had made a charge against someone in the Communist Party, and he said he left the Party for three years. In 1929 Mr. Hiss was married. In 1929 and 1930 he was working for Mr. Justice Holmes. Mr. Chambers was translating and about that time was living with Ida Dailes.

In 1932 Mr. Hiss was in the Boston law firm. Then he came to New York. Chambers was in the underground, [4634] a Russian spy, or, at least, a spy working for the Soviets.

I am going to jump ahead because there are just certain highlights that I can touch: In 1936 to 1937 Mr. Chambers was still getting stolen papers from Wadleigh. Mr. Hiss was working for Mr. Sayre who was his boss for three years, and took that witness chair and said that when they were negotiating trade agreements with Russia Mr. Hiss always had the American point of view.

In 1937 Chambers was making a false application, as he said, to cheat the Government of the United States, taking a false oath.

In September 1939 Chambers went to Berle and said Hiss is a Communist. That very month, having changed over to Dr. Hornbeck, Hiss was writing on his own time the neutrality memorandum that was taken by Dr. Clyde Eagleton, and he was working for some way to get America to help the Allies. That was anti-Communist.

I do not know of anything more outstanding that proves where Alger Hiss stood than that action over that period of time at the very time that Chambers was going to Mr. Berle and making this accusation.

Now, I say that every rumor stems from these reports that were taken from Mr. Berle and Mr. Ray Murphy. The Government may say we did not call them. Why should we call them? We have assumed they [4635] have correctly reported what Mr. Chambers said. If the Government thinks they did not correctly report it, it is up to them to call them. I have taken them to be correct reporting on the part of Mr. Berle and Mr. Ray Murphy as to what Mr. Chambers said.

Then we go along. 1944. Chambers is writing under a pseudonym, John Land, when he is with Time.

The most striking contrast comes in 1947 and 1948. Mr. Hiss went to work with Mr. Eichelberger and formed a committee to aid the Allies, and they worked on it until the spring of 1948. On February 2, 1948, Mr. Chambers comes out with his article on the Devil.

Now, that is the contrast of the sort of lives that these two men have lived and what they have done.

Mr. Hiss has been in Government service; he has been with the Carnegie Foundation; and everyone who has taken that stand as a character witness has told you of the high respect in which he is held. These rumors, the suggestions that Mr. Bullitt heard something in Paris—where is Mr. Bullitt? If he heard anything he would have taken that

chair, or anybody else that is passing on gossip that emanates from these notes.

Whittaker Chambers sowed the seeds of poison in the State Department that has followed Alger Hiss as he rose to higher and higher positions of trust in [4636] the Government.

Something may be said by Mr. Murphy about character witnesses, that anyone can get character witnesses. Maybe they could before the facts are out, but after all the newspaper publicity since August of 1948, since the first trial, you can rely upon the fact that every witness in that chair who testified to the character of Alger Hiss believed in his innocence or he would not have been in that chair; and they came voluntarily. And two of them were Government witnesses that I asked character questions. I won't recall them. You remember many of them covering the periods of his life, from childhood right through. Judge Wyzanski covering the period in Washington when he was with the Department of Justice, Department of Agriculture; Mr. Sayre in the Department of State; Dr. Hornbeck later, and then the others following right down.

I say that with a record like that, I just ask you, how would you like it 11 or 12 years after the event to have charges made against you and have to appear as he did, voluntarily. He never claimed privilege; he was always there answering questions. Wadleigh, wasn't he claiming privilege up to a time? How would you like to go through that experience, sit through one trial and sit here in the courtroom with his wife and [4637] hear the lies told from that witness chair about trips to Peterboro that never took place, and his wife going for a swim? And you have watched his expression.

Now, as to his being a Communist there is one witness that I have not mentioned, and that is Mrs. Massing. Mrs. Massing appeared here and testified. We put in exhibits, and if you want to see something interesting just look at her file that is marked as one exhibit. She gave three different dates for marriage to Gerhard Eisler; she gave

four different years and two different countries for her divorce, and in one application she concealed the fact that she was ever married to him; the false oath under which she became a citizen, and a spy; later in 1939 when she concealed the fact that she had ever been married to him. She did not tell this story until a few days before December 1948. There is no suggestion in the Berle notes or the Ray Murphy notes; it is Noel Field and Lawrence Duggan.

[4638] But now in 1948 she comes forward with this story. She did not say anything about both working for the same boss when Mr. McLean and Mr. Hiss saw her. At that meeting of September 19, 1949 at Eugene Lyons' apartment, who hired Chambers to write the book reviews under the name of John Land, which was not disputed so far as Mr. Rabinavicius' testimony was concerned, what did she say? She thought if permitted to testify she would convict Alger Hiss; second, that she was writing or was going to have articles written by Mr. Eugene Lyons as a ghost writer that she was going to publish after this trial, and she thought that her appearance here would help her in selling those articles.

Now that testimony, plus the fact that she said she had a passport. I summoned the State Department man here and he said she had. If we had that passport we would have found out where she had been. She said she went over ten or twelve times. I say that that testimony of one who wants to commercialize her appearance here before you does not deserve any consideration except contempt.

Just a moment about the absence of any consciousness of guilt or, to put it another way, Alger Hiss' consciousness of innocence: he volunteered to testify before the House Committee. He has [4639] answered every question. He never claimed privilege.

Furthermore I want to mention some of the improbabilities. Why do I say let us test it by probabilities? Well, if a story is told and it seems improbable, and the person is a normal, rational person you wonder if it could possibly be true.

I have mentioned the fact of the libel suit, the bringing of it; the daring to repeat the charge so he could bring it; the pressing of it; the taking of the depositions; the demanding of these documents.

If Alger Hiss knew that those documents existed the man was crazy. Secondly, if Chambers' story is true then he and Mr. Hiss were in a criminal conspiracy and committing treason against the United States.

Can you imagine a co-conspirator giving his fellow criminal conspirator to commit treason a sample of his own handwriting?

And may I say, I forgot to mention, Chambers described these handwritten notes, not as copies of documents but as specimens of Hiss's handwriting. Of course they were specimens. Of course they went into the files as specimens, and he produced them as specimens of his handwriting.

Third: the story about this typing of the [4640] documents to increase the flow; that those were microfilmed and then the originals as typed were destroyed. Do you suppose Mr. Hiss, if he was fool enough to do that, to have entrusted Chambers to have destroyed those documents? Why of course not.

Would anyone who was engaged in any conspiracy have met him in his office, had lunch with him, and sublet his apartment?

Lastly would anyone have permitted Chambers to come between five and six o'clock, when he had his maid there getting supper ready, to pick up those documents?

I overlooked something that is very important about these typewritten documents—the character of the paper. Look at the standards. There are two standards in May 1937 that Mrs. Hiss typed; that is the president's report and the letter to the University of Maryland on a different type paper. Mr. Murphy said, "Oh, that is a common type paper." We made a motion to take a piece of Exhibit 32 to have it analyzed, and from the fact that we did not pro-

duce an expert you may properly infer it would not show anything, favorable or unfavorable. The Government has not produced anything on that so we are left to look at the type or characteristic of this [4641] paper which has never been found in any of the standards.

Furthermore there is another point: the latest standard, with all the hundreds of FBI people scouring the country to locate standards, the latest standard typed by Mrs. Hiss on that Woodstock was May, 1937—May, 1937. It is on a different type paper, and it is practically all, except for size, on the same type paper, and isn't it significant, and there is a carbon copy of one of the Hiss letters, —look at that. It is a different type paper. It bears on the question of who typed it and on the question as to when the typewriter was disposed of.

Now, ladies and gentlemen, in my opening I said to you that I was going to try to be frank and present the case to you frankly and that I hoped at the end of the case that you would feel that not only had I lived up to that promise but that you would feel that my client had been frank and honest every time he was asked any questions at any time. I have tried to, and if I have not don't hold it against my client. There has been a conscious effort on my part to have you have all the information. There is a great deal of evidence I did not object to that I think might have been excluded by his Honor, but this is the sort of a case that you ought to [4642] know the background and know about the two principal people involved, and for that reason I was glad to have questions asked and glad to have you see Mr. and Mrs. Hiss on that stand and see how they reacted and how they answered questions.

Ladies and gentlemen, I think it not only proper but fair for me to say that I believe in the innocence, the honesty and innocence, of my client, or I would not have spent the time here that I have.

This case is going to you tomorrow afternoon and I believe by your verdict you will put the stamp of honesty and innocence upon Alger Hiss.

I thank you.

THE COURT: We will adjourn until tomorrow morning at 10 o'clock.

(The jury left the courtroom.)

THE COURT: Mr. Cross and Mr. Murphy, you have a matter to take up?

(At the bench after the jury left the courtroom:)

THE COURT: Mr. Cross and Mr. Murphy, as you know I have given you back your respective requests having indicated upon them my disposition of them. Now, Mr. Cross, you wish to note your exceptions to some of the dispositions of your requests as made by the Court? You wish to note your exceptions and the [4643] grounds, I take it.

MR. CROSS: I do, your Honor, and I would like, with your Honor's permission, to have Mr. McLean or Mr. Von Mehren, who have been working on this particular aspect of the case, to do it for us.

MR. McLEAN: On behalf of the defendant we would like to note an exception and objection to your Honor's denial of the following requests to charge submitted by the defendant: Nos. 5, 7, 10, 14 in so far as it relates to the second count of the indictment, 18, and the supplemental requests submitted to your Honor today. I would like to have these requests copied into the record, if I may, so a record may be made of them. The ground of the objection is that count II of the indictment, and the Government's bill of particulars, limits the Government to the charge under count II that the defendant's testimony was false in that the defendant in fact saw and conversed with Whittaker Chambers in February and March 1938.

Under this indictment and bill of particulars the Government must prove, in order to make out a case under count II, that the defendant saw and conversed with Whittaker Chambers in those two months. Proof of any alleged meeting or conversation between [4644] the defendant and Chambers at some other time after December 1936, but before February 1938, is not sufficient. We therefore feel,

with all due respect, that the defendant is entitled to the charges which we have requested.

The defendant also excepts to your Honor's denial of the following requests to charge: Nos. 19, 20, 21 and 22, on the ground that those requests set forth the legal effect of the evidence concerning the typewriter, and that in view of the importance of that evidence the defendant is entitled to have the jury instructed on this subject, even though it does relate to evidence other than purely and simply to law.

Finally, we would like to note an objection to your Honor's denial of requests Nos. 23, 24, 25, 26, 40, 45 and 46 on the ground that those requests also relate to various aspects of the evidence upon which we feel the jury should have the benefit of your Honor's instructions.

THE COURT: Mr. McLean, I assume you will file the proposed requests made by your firm and my disposition of them?

MR. McLEAN: Yes, sir. I should like to have them made part of the record.

THE COURT: Have you finished?

[4645] MR. McLEAN: Yes, sir.

THE COURT: Mr. Murphy?

MR. MURPHY: Your Honor, of course, I have no right even to say anything than "Thank you."

MR. CROSS: If that is all on that subject, there is one matter that I would like to take up with the Court at this time: I move that the testimony of Edith Murray be stricken from the record, and also that of Senator Dulles, for different reasons:

First, as to Mrs. Murray's testimony that it was not proper rebuttal testimony but was properly a part of the Government's direct case.

THE COURT: In answer to that I will say it might more properly have been offered in the direct case, but I don't think that it should be excluded because it is of-

fered in rebuttal, even assuming it should have properly been introduced in the direct case.

MR. CROSS: The second part of the motion, namely, the motion to strike the testimony of Senator Dulles, is because it is directed to an immaterial point and therefore is not subject to rebuttal testimony or to denial.

THE COURT: That motion is denied, Mr. Cross.

MR. McLEAN: If your Honor please, your Honor asked me a moment ago whether we had seen a copy [4646] of the Government's requests to charge. A copy was served on us, but so far as I know we have not seen your Honor's rulings on them which I take it will be apparent in your Honor's charge when you give it.

And that holds true for the Government with regard to the denials and refusals with regard to the defendant's requests. I did not know you did even exchange those. The rules provide for the exchange of the requests to charge but not necessarily the Court's action on them.

THE COURT: I handed them back to each of you as you came up to the bench together and I assumed you would see that they were filed forthwith for the record and each of you would see them.

MR. MURPHY: I have no objection to exchanging.

MR. CROSS: If you want to let us compare we can take care of that.

THE COURT: Yes.

MR. CROSS: The defendant wishes an exception to your Honor's ruling in denying the motion to strike the testimony of Edith Murray and Senator Dulles because the testimony is not proper rebuttal testimony.

(Adjourned to January 20, 1950, at 10:00 a.m..)

XXV.

DEFENDANT'S REQUESTS TO CHARGE AND ADDITIONAL REQUESTS TO CHARGE

At this point defendant's requests to charge and additional requests to charge appear in the transcript. Said requests to charge, and Judge Goddard's marginal notations indicating his disposition thereof, as filed for the record pursuant to Judge Goddard's direction, are as follows:

REQUESTS TO CHARGE SUBMITTED BY THE DEFENDANT ALGER HISS

[Same caption]

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*Will be covered in substance.** 1. The first count of the indictment sets forth three questions asked of Mr. Hiss before the grand jury and his answers to those questions. The purport of those questions is as to whether or not Mr. Hiss or Mrs. Hiss, in his presence, turned any documents of the State Department, or of any other government organization, or copies of any such documents over to Whittaker Chambers, or to any other unauthorized person. He denied before the grand jury that he had done so. After setting forth these questions and answers the indictment alleges that the answers were untrue, and here I direct your thoughtful attention to the respect in which the indictment claims that those answers were untrue. The allegation of untruthfulness is stated in the indictment in these words, namely, that the answers were untrue "*in*

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* Words in italics are handwritten endorsements of Judge Goddard appearing in the margin opposite the respective requests to charge as indicated.

that the defendant, being then and there employed in the Department of State, in or about the months of *February and March,* 1938, *furnished, delivered and transmitted* to one Jay David Whittaker Chambers, who was not then and there a person authorized to receive the same, copies of numerous secret, confidential and restricted documents, writings, notes and other papers the originals of which had theretofore been removed and abstracted from the possession and custody of the Department of State * * *".

Will be covered. * 2. In other words, the charge before you is that Mr. Hiss did in fact furnish, deliver and transmit these documents to Mr. Chambers and that in denying that he had done so he committed perjury. I charge you that unless you find beyond a reasonable doubt that Mr. Hiss did in fact in or about the months of February and March, 1938 furnish, transmit and deliver the documents in question to Mr. Chambers, you must acquit him on the first count of this indictment.

Will be covered. * 3. The only witness in this case who has testified that defendant Hiss did furnish, deliver and transmit these documents to Mr. Chambers, is Whittaker Chambers himself. If you do not believe beyond a reasonable doubt that Mr. Chambers testified truthfully when he said that Mr. Hiss did this, you must acquit the defendant on Count I.

Will be covered. * 4. It is charged in the second count of the indictment that the defendant, while a witness before the grand jury, testified falsely with respect to a material matter in that the defendant swore that he thought he could say definitely that he did not see Whittaker Chambers in December of 1936, and after January 1, 1937, whereas in fact the defendant knew such testimony to be untrue in that he did see and converse with the said Chambers in and about the months of February and March of 1938.

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*Denied.** 5. The only witness in this case who has testified that defendant Hiss did see and converse with the said Chambers in and about the months of February and March 1938 is Whittaker Chambers himself. Mr. Chambers has further testified that the occasions on which he claims to have seen and conversed with defendant Hiss in February and March 1938 were the same occasions on which he claims to have received documents from defendant Hiss. I, therefore, charge you that if you do not believe beyond a reasonable doubt that Mr. Chambers testified truthfully when he stated that defendant Hiss transmitted documents to him in February and March 1938, then you must acquit the defendant not only upon Count I but upon Count II as well.

*Will be covered.** 6. The veracity of Whittaker Chambers is the central issue in this case, and the vital question for your determination is whether or not you are willing to say that you have no reasonable doubt that Mr. Chambers is telling the truth. In determining the credibility of Mr. Chambers, you may and should take into account his entire life history, and you may consider any instances of peculiar behavior on his part, regardless of when they occurred.

*Will be covered.** 6A. In determining the credibility of Mr. Chambers, you may take into account the testimony of Dr. Binger and Dr. Murray as to Mr. Chambers' mental condition. You may give that testimony such weight as you consider proper.

*Denied as I shall not discuss the evidence in detail.** 7. In this connection, I refer you to the testimony of Mrs. Chambers, and what I have said with regard to Mr. Chambers, of course, applies to her, namely, that before you accept any statement made by her, you must find that she is a truthful witness. But more specifically, I direct your attention to the fact that Mrs. Chambers nowhere has tes-

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tified that she saw any of the documents in question furnished, transmitted or delivered by Mr. Hiss to her husband. She does not claim to have been present at any such alleged occurrence. Therefore, no matter which version of her testimony you may care to accept, if you indeed are willing to accept any version, no part of her testimony is directed to the months of February and March, 1938, nor to the transmittal of any documents; and the acceptance of that version does not bear upon, support or corroborate either of the essential charges in the indictment, to wit (a) the transmittal of the documents, and (b) to the seeing and conversing between Mr. Hiss and Mr. Chambers in February and March, 1938.

Will be covered. * 8. The presumption of innocence which the law affords to the defendant in this and every other case means, insofar as this case is concerned, that the defendant Hiss is presumed to have told the truth before the grand jury, and that such presumption continues until you have been satisfied by credible evidence beyond a reasonable doubt and to a moral certainty that he testified falsely and untruthfully as alleged in the indictment.

Will be covered. * 9. The burden is upon the prosecution to prove beyond a reasonable doubt, before a verdict of guilty on Count One can be arrived at, that the defendant Hiss did, in or about the months of February and March, 1938, furnish, deliver and transmit to Chambers copies of secret, confidential and restricted documents, writings, notes and other papers, the originals of which had theretofore been removed and abstracted from the possession and custody of the Department of State.

United States v. Golding, 12 Wheat. 460;
United States v. Richards, 149 Fed. 443;
People v. Downs, 123 N. Y. 558.

Denied. * 10. The burden is upon the prosecution to prove beyond a reasonable doubt, before a verdict of guilty

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can be arrived at under Count 2, that on December 15, 1948, defendant Hiss knew and believed that in fact he did see and converse with Chambers in and about the months of February and March, 1938.

United States v. Golding, 12 Wheat. 460;
United States v. Richards, 149 Fed. 443;
People v. Downs, 123 N. Y. 558.

*Will be covered in substance.** 11. To convict the defendant Hiss of perjury, the Government must produce testimony of a more direct and positive character than is required to justify a verdict of guilty of other offenses.

Hart v. United States, 131 F. (2d) 59, 61;
Allen v. United States, 194 Fed. 664, 668.

*Will be covered.** 12. The Government, to meet its burden, must establish the falsity of the statements alleged to have been made by the defendant under oath by the testimony of two independent witnesses or one witness and corroborating evidence inconsistent with the innocence of the defendant. Unless that has been done, you must find the defendant not guilty.

Weiler v. United States, 323 U. S. 606, 607;
United States v. Buckner, 118 F. (2d) 468 (2nd Cir.)

*Will be covered.** 13. The uncorroborated testimony of Chambers, even if believed by you, is not enough to establish the falsity of the testimony of Hiss, as set forth in the indictment. The Government must present other satisfactory corroborative evidence that the defendant Hiss furnished, transmitted or delivered the documents alleged in the indictment, or that he saw and conversed with Chambers in February and March of 1938.

Weiler v. United States, 323 U. S. 606, 607;
Hammer v. United States, 271 U. S. 620, 626.

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*Covered as to the 1st count and denied as to the 2nd count.** 14. Corroborating evidence is evidence which is independent of and apart from the evidence given by the witness Chambers, and it must be evidence which supports the testimony of Chambers that the defendant Hiss did turn over copies of State Department documents which were secret, confidential and restricted, and which had been removed from the possession and custody of the Department of State, and with respect to the second count must support the testimony of Chambers that the defendant Hiss did see and converse with him in February and March of 1938.

United States v. Murphy, 253 Fed. 404, 406.

Will be covered in substance. * 15. The evidence upon which the Government relies to corroborate the testimony of the witness Chambers that he received the documents in February and March, 1938, from the defendant, as alleged in the first count of the indictment, even if believed by you, is as a matter of law insufficient if such evidence is consistent with the innocence of the defendant; such independent evidence, to support the witness Chambers, must be inconsistent with the innocence of the defendant Hiss. In other words, the corroborative evidence must be evidence which is susceptible of no other *reasonable* ** inference save that of guilt.

United States v. Buckner, 118 F. (2d) 468, 469 (2nd Cir.);

United States v. Isaacson, 59 F. (2d) 966, 968 (2nd Cir.).

*Will be covered in substance.** 16. The evidence upon which the Government relies to corroborate the testimony of the witness Chambers that he saw and conversed with Mr. Hiss in February and March, 1938, as alleged in the second count of the indictment, even if believed by

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** Italicized word added by Judge Goddard.

you, is as a matter of law insufficient if such evidence is consistent with the innocence of the defendant; such independent evidence, to support the witness Chambers must be inconsistent with the innocence of the defendant Hiss. In other words, the corroborative evidence must be evidence which is susceptible of no other *reasonable* ** inference save that of guilt.

> *United States v. Buckner,* 118 F. (2d) 468, 469 (2nd Cir.);
> *United States v. Isaacson,* 59 F. (2d) 966, 968 (2nd Cir.).

*Will be covered.** 17. The only direct evidence in this case that the defendant Hiss furnished, transmitted or delivered the documents to Chambers in February and March, 1938, as alleged in the first count of the indictment, is that of the witness Chambers. If you find such testimony to be discredited, you must acquit the defendant Hiss on Count 1. Even if you find such testimony to be credible, you must acquit the defendant Hiss on Count 1 unless you find that evidence independent of that given by Chambers which is relied upon for corroboration, is inconsistent with the innocence of the defendant Hiss.

> *United States v. Weiler, supra;*
> *United States v. Buckner, supra;*
> *United States v. Isaacson, supra.*

Denied as the Government is not restricted in Count 2 to February and March, 1938.* 18. The only direct evidence in this case that the defendant Hiss saw and conversed with the witness Chambers in February and March, 1938, as alleged in the second count of the indictment, is that of the witness Chambers, and if you find such testimony to be discredited, you must acquit the defendant Hiss on Count 2. Even if you find such testimony to be credible, you must acquit the defendant Hiss unless you find that

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evidence independent of that given by Chambers, which is relied upon for corroboration, is inconsistent with the innocence of the defendant Hiss.

Denied; shall not comment on any particular evidence. * 19. If you find it to be a fact that some of the documents alleged to have been delivered to Mr. Chambers by defendant Hiss in February and March, 1938 were typed on a typewriter which was at one time owned by defendant Hiss or his wife, and if you also find it to be a fact that that typewriter was not in the possession of defendant Hiss or his wife in February and March 1938, then there is no corroboration of the testimony of Mr. Chambers and you must acquit the defendant on Count I and Count II.

Denied; shall not comment on particular evidence. * 20. If the testimony of Raymond Catlett and Perry Catlett, or the failure of the government to produce any letters written on this typewriter by defendant Hiss or his wife bearing any date subsequent to May 18, 1937, creates a doubt in your mind as to whether the typewriter was in the possession of defendant Hiss or his wife in February or March 1938, you must resolve that doubt in favor of the defendant.

Denied; shall state the law but shall not discuss the evidence in detail. * 21. If you find it to be a fact that some of the documents alleged to have been delivered to Mr. Chambers by defendant Hiss in February and March 1938 were typed on a typewriter which was at one time owned by defendant Hiss or his wife, and even if you find it to be a fact that that typewriter was in the possession of defendant Hiss or his wife in February and March 1938, those facts do not in themselves constitute corroboration of the testimony of Mr. Chambers that defendant Hiss did furnish, deliver and transmit documents to Chambers in February and March 1938.

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Denied; same disposition as No. 21.* 22. If you find it to be a fact that some of the documents alleged to have been delivered to Mr. Chambers by defendant Hiss in February and March 1938 were typed on a typewriter which was at one time owned by defendant Hiss or his wife, and even if you find it to be a fact that that typewriter was in the possession of defendant Hiss or his wife in February and March 1938, those facts do not in themselves constitute corroboration of the testimony of Mr. Chambers that he saw and conversed with defendant Hiss in February and March 1938.

Denied; same disposition as 21, 22.* 23. You are not to infer that the defendant delivered, transmitted and furnished copies of the documents, as alleged in the first count of the indictment, from the mere fact, if you find it to be a fact, that the documents in evidence as Exhibits [Baltimore] 1-55, inclusive, are copies, summaries or photographs of State Department documents.

Denied; same disposition as 21.* 24. You cannot infer that the defendant delivered, transmitted and furnished documents in evidence as Baltimore 1-55 from the mere fact that Chambers had such documents in his possession and produced them in his pre-trial deposition in the libel suit on November 17, 1948.

Denied; same disposition as 21.* 25. Mere association between the defendant and the witness Chambers, circumstances which you may regard as suspicious, or the fact, if you find it to be a fact, that the defendant had an opportunity to make copies of State Department documents and to deliver them, are not singly or jointly of themselves sufficient grounds upon which to base criminal responsibility of the defendant Hiss.

People v. O'Farrell, 175 N. Y. 323;
People v. Butler, 62 App. Div. 508;
People v. Nicosia, 164 Misc. 152, 157.

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Denied; same disposition as 21.* 26. The existence of friendly relations between Chambers and the defendant, if you find such to be the fact, is not a circumstance from which participation in the acts alleged in the indictment can be presumed because it is consistent with innocence.

People v. Courtney, 28 Hun 589, 593;
People v. Kathan, 136 App. Div. 303, 308.

*Will be covered in substance.** 27. The circumstances relied upon by the prosecution must point so unerringly to the guilt of the accused as to exclude every other reasonable hypothesis; the circumstances relied on must be proved to the satisfaction of the jury beyond a reasonable doubt; the circumstances must be consistent with each other, and inconsistent with any other reasonable hypothesis except the guilt of the accused; and they must point so unerringly to the guilt of the accused as to exclude every other reasonable hypothesis, except the hypothesis of guilt.

Showalter v. United States, 260 Fed. 719;
Miller v. United States (CCA) 277 Fed. 721;
Parish v. United States, 247 Fed. 40.

*Will be covered.** 28. Where the facts or circumstances proven to your satisfaction by the prosecution are susceptible of two inferences, one pointing to innocence and the other pointing to guilt, it is your duty to adopt the inference pointing to innocence, even though the inference pointing to guilt may be equally weighty.

Becher v. United States, 5 F. (2d) 45 (CCA, 2).

*Will be covered.** 29. That the defendant has been indicted by a grand jury is no evidence whatsoever. An indictment is nothing more or less than an accusation in writing. It has no probative or evidentiary force or effect whatsoever. On the contrary, the defendant is presumed to be innocent of the accusation laid against him in the

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indictment, and you are directed to presume him innocent unless and until you find that there is evidence of his guilt beyond a reasonable doubt.

*Will be covered.** 30. The prosecution must prove each fact and circumstance essential to the commission of the crime charged beyond a reasonable doubt. Evidence only sufficient to raise a conjecture or suspicion unfavorable to the accused is not legal evidence upon which you may render a verdict of guilty.

Mickle v. United States, 157 Fed. 229.

*Will be covered.** 31. By the term "reasonable doubt" is meant a doubt which is reasonable, a doubt of such a quality as that, were a doubt of like quality to arise in your private lives in connection with some important decision required to be made by you, you would hesitate and pause in that decision. If, when all the facts in evidence have been considered and you are not abidingly convinced to a moral certainty that the defendant is guilty, then you have a reasonable doubt.

United States v. Brunett, 53 F. (2d) 219, 234;
Hopt v. Utah, 120 U. S. 430, 439.

*Will be covered.** 32. If the evidence casts any doubt on any material issue in this case, such doubt must be resolved in favor of the defendant.

*Will be covered.** 33. If you find that any witness has wilfully testified falsely as to any material fact, you must disregard his testimony as to that fact; you may reject and disregard his entire testimony.

In this connection, I charge you that the term "material fact" includes facts bearing upon the credibility of the witness although not bearing directly upon the issues in this case. Facts going to the credibility of a witness who has given material evidence, are material facts within

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this rule, and if you find that any witness has wilfully falsified with respect to any fact going to his credibility, you may disregard all of his testimony.

The People v. Courtney, 94 N. Y. 490, 494;
People v. Kresel, 141 Misc. 593;
Reg. v. Glover, 9 Cox Crim. Cas. 501.

*Will be covered.** 34. I charge you that each of you must be satisfied that the verdict rendered represents your own personal judgment and the verdict must express your conclusion based upon the evidence in the case. While it is the duty of each juror to confer with his fellows and to discuss the evidence with them, the verdict must represent the real judgment and conclusion of each member of the jury and no one of you may acquiesce in any verdict against your own individual judgment. Each of you has to arrive at his conclusion separately, and each juror having in view the oath he has taken and his duty and responsibility thereunder, should have his own mind convinced beyond a reasonable doubt upon all the evidence before he can conscientiously consent to a verdict of guilty. Each of you must act on his own judgment of the evidence and upon his own conscience and no one of you may surrender his conviction of the guilt or innocence of the defendant, or of his reasonable doubt of guilt merely to prevent a disagreement.

United States v. Reid, 210 Fed. 486;
United States v. Kenney, 90 Fed. 257;
Stewart v. United States, 300 Fed. 769;
Allen v. United States, 164 U. S. 492.

*Will be covered.** 35. I charge you that any personal information which you or any one or more of you may have as to the facts not proved, cannot be considered as a basis for your verdict. You may believe as men that certain facts exist, but as jurors sworn to try this case, you

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can only act upon evidence introduced upon the trial, and from that evidence and that evidence alone, you must form your verdict unaided, unassisted, uninfluenced by any consideration other than the evidence in this case.

La Rosa v. United States, 15 F. (2d) 479.

*Will be covered.** 36. You are not to be persuaded in your consideration of the evidence in this case by the fact that the Government of the United States is a party to this action, for I charge you as a matter of law that the Government is to be considered as any other party and its counsel as any other counsel for any other party.

*Will be covered.** 37. In determining the credibility of witnesses who have testified at this trial, you must not allow yourselves to be persuaded to credence by the fact that any particular witness testified at the instance of the prosecution, for Government witnesses are not entitled to any more credence than other witnesses; nor is the testimony of any Government officer or agent entitled to any greater weight because of his official status in determining any conflict in testimony between that Government officer or agent and any other witness.

*Will be covered.** 38. In your deliberations, you must adhere strictly to the following rules, which I charge you upon your oaths, as a matter of law:

(a) You are to disregard answers of witnesses which the Court has directed to be stricken out at any stage of the trial.

(b) You must disregard all arguments of counsel addressed to the Court, upon questions of law or upon motions for the admission or exclusion of evidence, as well as the rulings of the Court upon such matters, whether in favor of the Government or in favor of the defendant.

(c) You are not to construe the denial by the Court of any motion made to dismiss this indictment as any in-

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dication of the guilt or innocence of the defendant, as such a ruling is not to be considered by you.

*Will be covered.** 39. If by any excluded answer of a witness or by any offer of testimony which was excluded, or by any question which was not allowed to be answered, any suggestions were conveyed to your mind of things not in evidence, you must resolutely refuse to be moved by such suggestions. You are only to consider matters which were admitted in evidence.

*Denied.** 40. The testimony of the witness Chambers is not to be taken like that of an ordinary witness of good character. On the contrary, the evidence of such a witness should be received by you with suspicion and with the greatest of care and caution, and ought not to be passed upon by you under the same rules or consideration which you would apply in governing other and apparently credible witnesses.

Crawford v. United States, 212 U. S. 183, 204;
Glasser v. United States, 315 U. S. 60 (1942).

*Will be covered.** 41. Witnesses have testified to the good reputation or character of the defendant concerning his integrity, loyalty and veracity, and such evidence of good character or reputation is to be considered by you, together with all the evidence in the case, and when so considered the evidence of good character may be sufficient to give rise to a reasonable doubt justifying a verdict of acquittal, when without it the other evidence in the case would be convincing of defendant's guilt.

Kreiner v. United States, 11 F. (2d) 722, 726;
Mannix v. United States, 140 F. (2d) 250, 253 (4th Cir.);
Edgington v. United States, 164 U. S. 361, 366.

*Will be covered.** 42. The evidence of the defendant's reputation for integrity, veracity and loyalty, when

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considered in connection with the other evidence in the case, may generate a reasonable doubt and justify a verdict of acquittal, when without such evidence of good reputation or character the other evidence in the case would be convincing of defendant's guilt.

Kreiner v. United States, supra;
Mannix v. United States, supra;
Edgington v. United States, supra.

*Will be covered.** 43. You are not to consider any assumptions or implications contained in questions asked by the Government's counsel of defendant's witnesses, including character witnesses.

Michelson v. United States, 93 L. Ed. 168, 172, footnote 3.

*Will be covered.** 44. There is no burden upon the defendant to prove how or from whom the witness Chambers obtained the copies of the documents and the four handwritten exhibits, for the burden is upon the prosecution to establish beyond a reasonable doubt and to a moral certainty that the defendant Hiss did, in February and March of 1938, deliver, transmit and furnish them to Chambers.

*Denied; as I shall not refer to all the testimony in detail. Counsel may cover this in his summation.** 45. If you find it to be the fact, as Chambers testified before the House Committee in August, 1948, that he ceased to be a Communist in 1937 then you must acquit the defendant Hiss. In determining whether in fact Chambers did cease to be a Communist in 1937, you may consider his testimony before the Committee as introduced on his cross-examination in this trial that he broke with the Communist Party when Mr. Hiss lived in the house where the dining room was below the level of the ground, in other words, the 30th Street house, in which Mr. Hiss lived until Decem-

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ber 29, 1937. Also in determining whether in fact Mr. Chambers left the Communist Party in 1937, you may consider his testimony in this trial that in 1937 he began to use his own name; that he rented in the name of Whittaker Chambers both at Auchentoroly Terrace and at Mount Royal Terrace in 1937, as well as the fact that his car was registered in the name of Chambers in the year 1937; that he was listed in the Baltimore telephone book in the name of Whittaker Chambers in 1937; that he and his wife represented to the Park School in the fall of 1937 that he was a free lance writer; that he registered his daughter at the Park School under the name of Chambers, and that he applied for and received a Government position in the fall of 1937.

Denied for the same reasons for denying No. 45.* 46. In determining whether Whittaker Chambers received the documents as alleged in the indictment and as testified to by him, you may consider the fact that at no time prior to November 17, 1948, did he state while under oath before the House Committee or before the October Federal grand jury that the defendant Hiss was engaged in espionage with him, and you may also consider his statements to the Federal Bureau of Investigation in 1942 and 1945 that at no time did he know that he was engaged in espionage.

*Will be covered.** 47. In determining whether Chambers had a motive to implicate the defendant Hiss, you may consider the fact that it was not until after the defendant Hiss sued him for libel in the amount of $75,000 that he claimed that the defendant Hiss was engaged in espionage with him. In other words, you are free to infer from the fact that he did not produce these documents or claim that the defendant Hiss was engaged in espionage with him until after the libel suit for $75,000 was instituted against him, that he was prompted by pecuniary

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motives, namely, to prevent a judgment being obtained against him and that he was prompted thereby to lie and fabricate his story about receiving documents from Mr. Hiss.

ADDITIONAL CHARGES REQUESTED BY DEFENDANT WITH RESPECT TO COUNT 2

[Same Caption]

Denied. * Count 2 of the indictment alleges that the defendant testified falsely when he said that he thought he could say definitely that he did not see Whittaker Chambers after December 1936 or after January 1, 1937. The testimony of Whittaker Chambers with respect to alleged meetings between him and the defendant after December 1936 and January 1, 1937 has not been corroborated by the testimony of any other witness or by any other evidence in the case.

Denied. * The testimony of Mrs. Chambers as to alleged meetings between Whittaker Chambers and the defendant after December 1936 and January 1, 1937 has not been corroborated by the testimony of any other witness or by any other evidence in the case.

Denied. * There is no alleged meeting between the defendant and Whittaker Chambers after December 1936 that has been testified to by more than one witness, nor has the testimony of any witness with respect to any such alleged meeting been corroborated by any other evidence in the case.

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XXVI.

GOVERNMENT'S REQUESTS TO CHARGE AND SUPPLEMENTAL REQUESTS TO CHARGE

The Government's requests to charge and supplemental requests to charge do not appear in the transcript. Said requests to charge, and Judge Goddard's marginal notations indicating his disposition thereof, as filed for the record pursuant to Judge Goddard's direction, are as follows:

GOVERNMENT'S REQUESTS TO CHARGE

[Same Caption]

The Government respectfully requests this Honorable Court to charge as follows:

REQUEST NO. 1

Will be covered. * It is for the Court to state the principles of law which are applicable; and it is also for the Court to solve all questions with respect to the admission and rejection of evidence.

See the charge of Judge Simon H. Rifkind in *United States v. Goldstein,* affirmed at 168 F. (2d) 666 (2nd Cir. 1948).

REQUEST NO. 2

Will be covered. * While the accused at the beginning of a trial is presumed innocent, when the evidence

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shows his guilt beyond a reasonable doubt, that presumption of innocence disappears.

Shepard v. United States, 236 Fed. 73 (9th Cir. 1916).

REASONABLE DOUBT
REQUEST NO. 3

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*Will be covered.** "It is not necessary for the Government to prove the guilt of the defendant beyond a possible doubt. If that were the rule, few men, however guilty they might be, would be convicted. The reason would be that in this world of ours it is practically impossible for a person to be absolutely and completely convinced of any controverted fact which by its nature is not susceptible of mathematical certainty. In consequence, the law is such that in a criminal case it is enough if proved that the defendant's guilt be established beyond a reasonable doubt—not beyond all possible doubt."

From the charge of Judge Knox in *United States v. Miller,* aff'd. *Miller v. United States,* 24 F. (2d) 353 (2nd Cir. 1928).

REQUEST NO. 4

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*Will be covered.** "A reasonable doubt does not mean a fanciful doubt; nor does it mean a capricious doubt. It does not mean a doubt borne of a reluctance upon the part of a jury to perform an unpleasant task, nor does it mean a doubt growing out of the sympathy or sorrow for the defendant or anyone connected with him,

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but it does mean a doubt which is reasonable in view of all the evidence in the case."

A portion of Judge Knox's charge in the *Miller-Dougherty* case; conviction affirmed in *Miller v. United States,* 24 F. (2d) 353 (2nd Cir. 1928).

REQUEST NO. 5

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*Will be covered.** A reasonable doubt of the guilt of the defendant is a doubt based on reason and which is reasonable in view of all the evidence; an honest, substantial misgiving, generated by insufficiency of proof. It is not a capricious or fanciful doubt suggested by the ingenuity of counsel or jury, and unwarranted by the testimony,—nor is it a doubt born of a merciful inclination to permit the defendant to escape conviction, or prompted by sympathy for him or those connected with him.

United States v. Newton, 52 Fed. 275, 290 (S. D. Iowa, 1892).

REQUEST NO. 6

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*Will be covered.** The jury is composed of twelve people. While undoubtedly their verdict should represent the opinion of each individual juror, it by no means follows that opinions may not be changed by conference in the jury room. The very object of the jury system is to secure unanimity by a comparison of views and by arguments among the jurors themselves. Each juror should listen, with a disposition to be convinced, to the opinions and arguments of the others. It is not intended that a juror should go to the jury room with a fixed determination that

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the verdict shall represent his opinion of the case at that moment. Nor is it intended that he should close his ears to the arguments of other jurors who are equally honest and intelligent with himself.

From the charge of Judge Simon H. Rifkind, *United States v. Goldstein,* affirmed at 168 F. 2d 666 (2nd Cir. 1948).

REQUEST NO. 7

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*Will be covered.** The deep personal interest which every defendant has in the result of his prosecution should be considered in determining the credibility of his testimony. You are instructed that interest creates a motive for false testimony; that the greater the interest the stronger is the temptation and that the interest of the defendant is of a character possessed by no other witness, and is, therefore, a matter which may seriously affect the credence that shall be given to his testimony.

Regan v. United States, 157 U.S. 301 (1895).

REQUEST NO. 8

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*Will be covered substantially.** The evidence of good previous character adduced at this trial in favor of the defendant is not of itself sufficient to create reasonable doubt in your minds as to his guilt. You are instructed to consider such evidence of good character together with all the other facts and evidence brought out at the trial in determining his guilt or innocence.

Kreiner v. United States, 11 F. 2d 722 (2nd Cir. 1926), cert. Denied, 271 U. S. 688.

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REQUEST NO. 9

*Will be covered.** The mere circumstance that a defendant has borne a good reputation prior to the time that he was accused of complicity in the crime charged should not be used by the jury as a means of excusing the commission of the crime or of showing leniency to one whose guilt is established beyond a reasonable doubt.

Capriola v. United States, 61 F. 2d 5 (7th Cir. 1932).

REQUEST NO. 10

*Will be covered.** A witness is said to be corroborated when his testimony, either in whole or in part, is supported either by the testimony of another witness in substantial agreement with him or by other circumstances pointing to the truth of his testimony.

Caminetti v. United States, 242 U.S. 470 (1916).

REQUEST NO. 11

*Will be covered.** Circumstantial evidence is that evidence which tends to prove a disputed fact by proof of other facts which have a legitimate tendency to lead the mind to a conclusion that the fact exists which is sought to be established. This is legal evidence, and a jury must act upon it as if it were direct, when it proves the defendant's guilt beyond a reasonable doubt.

Rumely v. United States, 292 Fed. 532 (2nd Cir. 1923).

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REQUEST NO. 12

*Will be covered.** Section 1621, Title 18, United States Code (1923 ed.)

> "§1621. *Perjury generally*
>
> Whoever, having taken an oath before a competent tribunal officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both."

REQUEST NO. 13

*Will be covered.** The evidence offered by the Government that the defendant Alger Hiss appeared as a witness before a Grand Jury of the Southern District of New York on December 15, 1948, and was duly under oath to testify truly, is not contradicted.

REQUEST NO. 14

*Will be covered.** The evidence offered by the Government as to the nature of the investigation being conducted by that Grand Jury is not contradicted; that is, the Grand Jury was investigating whether the espionage or other statutes of the United States had been violated.

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REQUEST NO. 15

Covered. * The evidence offered by the Government that the Grand Jury Deputy Foreman who administered the oath on behalf of the Grand Jury to Alger Hiss before he testified, was authorized by law to administer the oath is not contradicted.

REQUEST NO. 16

Will be substantially covered. * The evidence offered by the Government as to what the defendant Alger Hiss testified to under oath before the Grand Jury on December 15, 1948, is not contradicted and is:

(1) "Q. Mr. Hiss, you have probably been asked this question before, but I'd like to ask the question again. At any time did you, or Mrs. Hiss in your presence, turn any documents of the State Department or any other Government organization, or copies of any documents of the State Department or any other Government organization, over to Whittaker Chambers? A. Never. Excepting, I assume, the title certificate to the Ford.

Q. In order to clarify it, would that be the only exception? A. The only exception.

JUROR: To nobody else did you turn over any documents, to any other person?

THE WITNESS: And to no other unauthorized person. I certainly could have to other officials."

(2) "Q. Now, Mr. Hiss, Mr. Chambers says that he obtained typewritten copies of official

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State documents from you. A. I know he has.

Q. Did you ever see Mr. Chambers after you entered into the State Department? A. I do not believe I did. I cannot swear that I did not see him some time, say, in the Fall of '36; and I entered the State Department September 1, 1936.

Q. Now, you say possibly in the Fall of '36. A. That would be possible.

Q. Can you say definitely with reference to the Winter of '36. I mean, say, December, '36? A. Yes, I think I can say definitely I did not see him.

Q. Can you say definitely, that you did not see him after January 1, 1937? A. Yes, I think I can definitely say that.

MR. WHEARTY: Understanding, of course, exclusive of House hearings and exclusive of the Grand Jury.

THE WITNESS: Oh, yes."

REQUEST NO. 17

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*Will be covered.** If the jury is satisfied from the evidence, beyond a reasonable doubt, that the defendant Alger Hiss did appear before the Grand Jury and did take an oath and did testify as the Government contends, then it is for the jury to determine whether those statements were false and whether the defendant knew them to be false; that is to say, if the jury is satisfied from the evidence beyond a reasonable doubt that when the defendant Alger Hiss stated under oath to the Grand Jury that neither he nor Mrs. Hiss in his presence, at any time turned

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any documents of the State Department or of any other Government organization or copies of any documents of the State Department or any other Government organization, over to Whittaker Chambers he was wilfully and contrary to his said oath stating matters which he did not believe to be true, then you must find him guilty on the first count of the indictment. Charge from *United States v. Carroll,* 16 F.2d 951 (2nd Cir. 1927).

REQUEST NO. 18

Will be covered. * If the jury is satisfied from the evidence, beyond a reasonable doubt, that the defendant Alger Hiss did appear before the Grand Jury and did take an oath and did testify as the Government contends, then it is for the jury to determine whether those statements were false and whether the defendant knew them to be false; that is to say, if the jury is satisfied from the evidence beyond a reasonable doubt that when the defendant Alger Hiss stated under oath to the Grand Jury that he did not see Whittaker Chambers after January 1, 1937 he was wilfully and contrary to his said oath stating matters which he did not believe to be true, then you must find him guilty on the second count of the indictment. Charge from *United States v. Carroll,* 16 F.2d 951 (2nd Cir. 1927).

REQUEST NO. 19

Will be covered. * The Court instructs the jury that as a matter of law the statements alleged in the indictment were material to the investigations being conducted by the Grand Jury. Charge in *United States v. Carroll,* affirmed at 16 F. 2d 951 (2nd Cir. 1927).

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REQUEST NO. 20

Will be covered. * The jury is instructed that the law recognizes no excuses or justification for perjury. A man is compelled by law to testify truly under oath before a competent tribunal such as the Grand Jury. Charge in *United States v. Carroll,* affirmed at 16 F. 2nd 951 (2nd Cir. 1927).

REQUEST NO. 21

Will be covered. * I charge you that in this case there is ample evidence upon which, if you believe it, you may find the defendant guilty of the crime of perjury on both or one of the counts in the indictment. Charge in *Carroll v. United States,* affirmed at 16 F. 2d 951 (2nd Cir. 1927). Charge of Judge Simon H. Rifkind in *United States v. Goldstein,* affirmed at 168 F. 2d 666 (2nd Cir. 1948).

REQUEST NO. 22

Will be covered. * In this case we listened to two witnesses whom we call expert witnesses. There is no great difference between an expert witness and any other human witness; and the rules concerning them are very much the same and you judge their testimony the same as you would judge the testimony of every other witness.

See charge of Honorable Simon H. Rifkind in *United States v. Goldstein,* affirmed at 168 F. 2d 666 (2nd Cir. 1948).

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REQUEST NO. 23

Will be covered. * If you do not believe the facts on the basis of which an expert gave his opinion, then his opinion is valueless. But otherwise you will treat the expert's opinions as evidence which you have heard. You may accept it, you may reject it; you may accept it in part, you may reject it in part; you may accept that which seems to you to be truthful and probable, you may reject that which you regard as improbable or badly founded. The decision on those matters is entirely in your keeping.

See charge of Honorable Simon H. Rifkind in *United States v. Goldstein,* affirmed at 168 F. 2d 666 (2nd Cir. 1948).

REQUEST NO. 24

Will be covered. * "The Government must establish the falsity of the statement alleged to have been made by the defendant under oath by the testimony of two independent witnesses or one witness and corroborating circumstances.

Unless that has been done, you must acquit the defendant.

Two elements enter into a determination concerning corroborative evidence: (1) that the evidence, that is, the corroborative evidence, if true, substantiates the testimony of a single witness who has sworn to the falsity of the alleged perjurious statement, and (2) that the corroborative evidence is trustworthy."

From charge of Judge Simon H. Rifkind in *United States v. Goldstein,* affirmed at 168 F. 2d 666 (2nd Cir. 1948), in which he quotes from *Weiler v. United States,* 323 U.S. 606, 610 (1945).

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REQUEST NO. 25

Will be covered. * The testimony of a character witness is not to be considered as an expression by the witness of his own opinion of the character of the defendant. Moreover, such testimony is not to be considered as an opinion by the particular witness as to the guilt or innocence of the defendant. The guilt or innocence of the defendant is for the jury to determine.

Michelson v. United States, 335 U.S. 469, 477 (1948).

REQUEST NO. 26

Will be covered. * If the jury is satisfied from the evidence, beyond a reasonable doubt, that the defendant Alger Hiss did appear before the Grand Jury and did take an oath and did testify as the Government contends in Count Two, then it is for the jury to determine whether the defendant's statement in Count Two was false and whether the defendant knew it to be false; in this regard, I charge you that if you are satisfied beyond a reasonable doubt by the testimony of Whittaker Chambers that he saw the defendant in 1937 and 1938, and the testimony of Esther Chambers, that the defendant saw Whittaker Chambers in 1937 and 1938, that the defendant Alger Hiss knowingly, falsely swore that he did not see Whittaker Chambers after January 1, 1937, then you must find the defendant guilty of Count Two.

Weiler v. United States, 323 U. S. 606, 610 (1945).

REQUEST NO. 27

Denied as I shall not discuss the evidence in detail. * If the jury is satisfied from the evidence, beyond a reason-

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able doubt, that the defendant Alger Hiss did appear before the Grand Jury and did take an oath and did testify as the Government contends in Count Two, then it is for the jury to determine whether the defendant's statement in Count Two was false and whether the defendant knew it to be false; in this regard, I charge you that if you are satisfied beyond a reasonable doubt, by the testimony of Whittaker Chambers that he saw the defendant on or about November 19, 1937, and that he received the sum of $400 on or about November 19, 1937 from the defendant, and the documentary proof that the sum of $400 was withdrawn from a bank account of the defendant's and his wife on November 19, 1937, that the defendant Alger Hiss knowingly, falsely swore that he did not see Whittaker Chambers after January 1, 1937, then you must find the defendant guilty on Count Two.

Weiler v. United States, 323 U.S. 606, 610 (1945).

REQUEST NO. 28

Denied for the same reasons No. 27 *is denied.* * If the jury is satisfied from the evidence, beyond a reasonable doubt, that the defendant Alger Hiss did appear before the Grand Jury and did take an oath and did testify as the Government contends in Count Two, then it is for the jury to determine whether the defendant's statement in Count Two was false and whether the defendant knew it to be false; in this regard I charge you that if you are satisfied, beyond a reasonable doubt, by the testimony of Whittaker Chambers that he personally gave one of four rugs to the defendant in January 1937, and the admission by the defendant that he received a rug from Whittaker Chambers and the proof that Meyer Shapiro purchased four rugs for

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Whittaker Chambers which Meyer Shapiro received on December 29, 1936 and then forwarded to a person in Washington, D. C., that the defendant Alger Hiss wilfully, falsely swore that he did not see Whittaker Chambers after January 1, 1937, then you must find the defendant guilty of Count Two.

Weiler v. United States, 323 U.S. 606, 610 (1945).

REQUEST NO. 29

Will be covered in substance. * If the jury is satisfied from the evidence, beyond a reasonable doubt, that the defendant Alger Hiss did appear before the Grand Jury and did take an oath and did testify as the Government contends in Count One, then it is for the jury to determine whether the defendant's statement in Count One was false and whether the defendant knew it to be false; in this regard I charge you that if you are satisfied, beyond a reasonable doubt, by the testimony of Whittaker Chambers, and the corroborative proof that the four handwritten notes produced by Whittaker Chambers were admittedly written by the defendant and that the typewritten papers, marked Exhibits Baltimore 5 through 47 (except Ex. Bal. 10), produced by Whittaker Chambers were typed on a typewriter owned and possessed by the defendant, that the defendant Alger Hiss wilfully, falsely swore that he did not nor did Mrs. Hiss in his presence, turn any documents of the State Department or any other Government organization, or copies of any documents of the State Department or any other Government organization, over to Whittaker Chambers, then you must find the defendant guilty of Count One.

Weiler v. United States, 323 U.S. 606, 610 (1945).

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REQUEST NO. 30

Will be substantially covered. * If the jury is satisfied from the evidence, beyond a reasonable doubt, that the defendant Alger Hiss did appear before the Grand Jury and did take an oath and did testify as the Government contends in Count Two, then it is for the jury to determine whether the defendant's statement in Count Two was false and whether the defendant knew it to be false; in this regard, I charge you that if you are satisfied, beyond a reasonable doubt, by the testimony of Whittaker Chambers, and the corroborative proof that the four handwritten notes produced by Whittaker Chambers were admittedly written by the defendant and that the typewritten papers, marked Exhibits Baltimore 5 through 47 (except Ex. Baltimore 10), produced by Whittaker Chambers were typed on a typewriter owned and possessed by the defendant, that the defendant Alger Hiss wilfully, falsely swore that he did not, nor did Mrs. Hiss in his presence see Whittaker Chambers after January 1, 1937, then you must find the defendant guilty of Count Two.

Weiler v. United States, 323 U.S. 606, 610 (1945).

Respectfully submitted,

IRVING H. SAYPOL,
United States Attorney for the Southern District of New York, Attorney for United States of America

THOMAS F. MURPHY
CLARKE S. RYAN
Assistant United States Attorneys

THOMAS J. DONEGAN
Sepecial Assistant to the Attorney General, Of Counsel.

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GOVERNMENT'S SUPPLEMENTAL REQUESTS TO CHARGE

[Same Caption]

The Government respectfully requests as a supplemental request to charge that this Honorable Court charge as follows:

SUPPLEMENTAL REQUEST NO. 1

Will be covered. * I charge you that it is the function of the jury, and the function, only, of the jury, to determine what the true facts are in this case. You are in no sense bound by any expert testimony as to the credibility of any witness in this trial. Such expert testimony may be entirely disregarded by you if you are satisfied from the evidence presented that the witness is to be believed.

SUPPLEMENTAL REQUEST NO. 2

Will be covered. * Under the American system of jury trials, the sole arbitrators of the truth or falsity of the evidence, and the credibility and the weight to be given to the testimony of the various witnesses and exhibits, are the members of the jury.

You have listened to the testimony of medical experts. I charge you that neither expert has testified as to the specific truth or falsity of any fact in issue.

I charge you further that they could not, as a matter of law, testify to the truth or falsity of any fact in issue.

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At most, each expressed his opinion as to an alleged mental disturbance of the witness Chambers.

I charge you that in connection with such opinion it is for you, and you alone, to determine the value of such expert opinion. You are at liberty to give it such weight, if any, that you care to. You can disregard it in its entirety. You can accept part or all. But the ultimate fact, that is the issues created by the indictment and the plea of not guilty, the testimony of the Government's witnesses and the testimony of the defendant and his witnesses, is to be decided by you, to the exclusion of all other people, including counsel, experts, and even myself.

Respectfully submitted,
IRVING H. SAYPOL
United States Attorney for the Southern District of New York, Attorney for the United States of America.

THOMAS F. MURPHY,
CLARKE S. RYAN,
Assistant United States Attorneys,

THOMAS J. DONEGAN,
Special Assistant to the Attorney General, Of Counsel.

[4670] New York, January 20, 1950; 10:00 o'clock a. m.
Trial resumed.

XXVII.

SUMMATION ON BEHALF OF THE GOVERNMENT

MR. MURPHY: Judge Goddard, Madam Forelady, Ladies and Gentlemen of the Jury:

It is my turn to thank you, and I do. I thank you for being so patient and so attentive. I am glad that we are all here as healthy as when we started.

I thank you, Judge Goddard. It is always a pleasure to come before you, and, I think, ladies and gentlemen, it is a distinct honor for you people to sit in a case that is presided over by Judge Goddard.

Now this afternoon you come to a sacred duty. You are to reconsider your oaths and decide the facts in this case. You told us when you were sworn that you would decide this case with justice for all and bias or sympathy to none, and, ladies and gentlemen, I cannot impress upon you too strongly the seriousness of that oath—justice to the Government and justice to the defendant.

You are going to approach your problem with [4671] reason, the same as you approach all of your problems, whether in business or at home. You are going to dispense with emotion.

How unfair it would be to decide things on emotion, particularly the facts in a criminal trial. Just think. You cannot say that one is handsome and tall and the other is pudgy and small; one went to Harvard and one to Columbia; Mrs. Hiss went to a party with Mrs. Dean Acheson. Mrs. Chambers' mother and father came from Russia. It just does not make sense. You cannot do it by emotion. You have to apply reason. You have to analyze the cold facts. We all have a job to do and that is your job; to analyze the facts and tell us what those facts are.

Judge Goddard has exclusive control of the order of the trial and the law. It would be presumptuous on my part or Mr. Cross's part to interfere with that job. I am not going to talk about the law at all. I think if you will listen to Judge Goddard's explanation it will surpass anything that we lawyers could do. He has had so much more experience to start with, but in the final analysis it is he who tells you what the law is and how you apply that law to the facts.

Now what facts are we concerned with? We are concerned with the facts that have arisen because [4672] of this indictment. I told you in the beginning that the facts would be proved by the immutable documents, and there, ladies and gentlemen, are the documents (indicating). They do not change. They are there and have been there for 11 or 12 years. Nobody's memory is concerned with those at all. Nobody has altered them. They cannot be altered. They are immutable. They do not change, and I tell you, ladies and gentlemen, you will always come back to the documents in applying reason to this case.

It reminds me of a story from the Bible. If you recall how Moses had gone up to the mountain to pray. There was dissension amongst his people, and while he was there they became dissatisfied with his theory of God and they got together their gold and they made a golden calf and they continued to worship the golden calf in his absence. He came down and he noticed that there was something wrong; there was a change. He could not put his finger on it, and then he asked, he said, "Have you been worshipping false gods perhaps?" "No, no, we have not; no. We deny that we have. You were in the mountain. You did not see us."

And then he saw the golden calf. Despite their denial, despite their protestations there was the calf, the immutable evidence that they were lying.

[4673] And there (indicating), ladies and gentlemen, are the immutable evidences of the lying in this case. There is the golden calf.

Now Mr. Cross said this is not an ordinary case, this is not an ordinary case. Ladies and gentlemen, it is an

ordinary case. In this courtroom everything is ordinary. This courtroom is a great leveler of social distinctions. When you come in here either as a plaintiff or a defendant in a civil case you start from scratch; everybody is even. And in a criminal case you are just a defendant, just an ordinary defendant. Judge Manton, a judge in the Circuit Court of Appeals, was a defendant right here. You are just a defendant. You don't get any extra merits here because you are able to say "I am different."

Ladies and gentlemen, we have one rule of law in this courtroom and that rule of law is applied to Alger Hiss the same as it is to any defendant accused of operating a 25-gallon still. There is just one rule, and we don't care at all—it is a simple case of lying, lying under oath. Congress calls it perjury. It is lying. We know about lies and we know about lies under oath, and the question is, Did he lie under oath?

Now it has some extraordinary angles. The defendant is a lawyer. He told us that he has had [4674] nine lawyers, nine men eminent in their field, extremely well qualified. He has had an advantage which has been denied to many, many thousands of defendants all over the country. He has been able to cross-examine the principal Government witness before trial. Have you ever heard of that? Examine the principal Government witness before trial. 1300 pages of testimony in the Baltimore depositions.

And why was the action brought in the Federal Court in Baltimore? Because under the Federal Rules any party to an action can examine the other party with the utmost liberality. You heard Mr. Marbury explain what he examined Mrs. Chambers on. The utmost liberality before trial. Not only did he examine Mr. Chambers before the indictment in this case, but after the indictment in this case. Just imagine what an advantage that is.

They had two medical experts, two advocates for free. Neither one is going to charge or has charged any compensation for his services. That, ladies and gentlemen, is extraordinary.

What else is extraordinary? The defendant has called 19 character witnesses, more than one-third the number of his total witnesses, and they have testified to his reputation for integrity, loyalty and [4675] honesty, veracity. They have told you what the gossip is that they have heard, the accumulation of gossip over the years that they have known him and what that is. Most of them said his reputation was good. Some made finer distinctions in their minds. Mr. Sayre, his boss, said it was evenly divided; half thought his reputation for integrity was good. Judge Wyzanski didn't quite tell us. He said it is as good as anyone he knows, and he didn't tell us whom he knows. Mr. Dulles said his reputation up to 1947 was good. Dr. Hornbeck says, well, he heard from Ambassador Bullitt on a number of occasions that he was a Communist; didn't tell the FBI, the Secretary of State; he told his wife, and he also shrugged his shoulders. His friend Mr. Green from the State Department, the man whose deposition was taken, said he has known him some years and before Mr. Hiss left the State Department Mr. Green heard that he was a Communist and went to Mr. Hiss and told him; he didn't say anything.

I ask you ladies and gentlemen what kind of a reputation did a good spy have? Of course it must be good. The fox barks not when he goes to steal the lamb. It has to be good. But we are here on a search for truth. We are not concerned with reputations. Poppycock.

[4676] Just think how many people could call good reputation witnesses. Just think. Benedict Arnold, a major general in our Army—a major general—and he sold out West Point to the enemy. Before they caught Major Andre right up here in Tarrytown don't you believe that Major General Benedict Arnold could call George Washington? Couldn't he call all of the members of the General Staff, one of their men?

And Brutus: before he stabbed Caesar don't you think he could have stood in front of the Roman Senate and called upon the great Augustus and said, "Tell him what a man I am."

And Judge Manton, he had character witnesses. You might recall one of the character witnesses who testified in this trial was one of his.

And lastly the devil himself. You remember that story that Mr. Chambers wrote. The devil was a fallen angel and before he was thrown out of Heaven he was in the sight of God. He could have called upon the Almighty himself for his reputation.

Ladies and gentlemen, character witnesses belong to another era. This is the age of reason. This is the age of common people. And what we want are facts. We are here, you are here, Judge Goddard is here to ascertain the facts. We don't want [4677] gossip.

Now, how do you find out the facts? Is there a mathematical formula? Is there a slide rule that you pull out and push in, and there they are? No, we don't have that as yet. And I told you in the beginning we don't have a motion picture. There was no camera and sound track at the time of these goings on. You have to apply, and I know you will apply, your own common experience, the experience that you have learned from childhood and that you now possess as adults. The same experience that teaches you to analyze the facts in your business and in your home.

[4678] I am going to give you two homely examples: You have a boy and you tell him, "Don't go near the water." And he leaves the house and he comes back and his feet are wet. Now, you don't know whether he had water on his shoes or just ordinary dew, or he spilled some Cliquot Club, but you know that his feet are wet, and your common experience tells you he defied your orders not to go near the water. You arrive at that conclusion because you applied your common sense. What else could the facts be?

And the boy who was told not to eat anything while his mother was away; and you come back and there is the jam on his face, all around his lips. Do you need a stomach pump to find out whether he ate the jam?

Those are conclusions, ladies and gentlemen, that come to you naturally because you are endowed like all of us with common sense. There is no mystery about it at all.

Now, we have had two medical experts here, two medical advocates who testified without compensation.

Now, ladies and gentlemen, so that you will not misunderstand me, psychiatry and psychology are—and I think everybody agrees—two respected branches of medicine; and I think you can assume that in the preparation of my cross-examination I had competent [4679] assistants. You can assume that. I have respect for the profession of medicine. A psychiatrist who has no bias, who studies a case with the aid of a psychologist who has applied tests that have been developed over a long period of time and tells us about the condition of a subject's mind where there is evidence that there is something wrong mentally, it is of great help, a great help; it cannot be denied. But we do not have that here. There was no suspicion of anything wrong with Mr. Chambers' mind at all.

Judge Goddard said, "I will allow it; it is the trend, and I will charge you what weight to give to that testimony."

I do not know what Judge Goddard is going to charge you, but whatever Judge Goddard says is good enough for me.

But in passing I think you will recall that the witnesses, the two doctors, did not testify as to the truth or falsity of anything Mr. Chambers said. They could not. Ladies and gentlemen, that is what you are here for. We could throw out juries, we could do away with them; we could have one doctor. That is not the purpose.

Now, I cross-examined each and I think I demonstrated to you and to each of you that their diagnosis was without factual foundation. Neither examined the witness; neither conducted any tests. Dr. Murray did [4680] not even see him. And if the profession of psychiatry has been hurt, to paraphrase Mr. Chambers, I did it with compunction and under compulsion.

If I thought there was a serious question, a really serious question of the mental condition of Mr. Chambers, I suggest to you that the Government could afford competent psychiatrists. But I did not call any. I do not think the question attained that dignity.

I think that perhaps there was another purpose behind the doctors. They each testified without fee. Perhaps they were unconsciously biased; perhaps they had a cause too and they wanted to help a friend. Nothing wrong with helping a friend, but in helping a friend don't hurt anybody. And I submit to you, ladies and gentlemen, assuming that the doctors' motives and intentions were sincere and that they wanted to help a friend, did they consciously hurt another—a man that they did not know and did not care to know?

One thing I thought was significant. Dr. Binger on his redirect examination failed to explain why he told the people in London that there was a neurosis going over the minds of the American people called "the bugaboo of Communism." I read the article to him. He said, yes, there was one slight change in the latter part of the article, but he said yes, he said that. [4681] And Mr. Cross did not ask him on redirect to explain that.

Ladies and gentlemen, in my cross-examination I think I developed that you cannot have a competent diagnosis merely by multiplying symptoms; you cannot unless we all have a number—unless we all have a number—you just cannot multiply a hundred by zero and get anything but zero.

Now, ladies and gentlemen, the indictment here? Without reading it I think I can summarize it quite simply: You have to find out whether Mr. Hiss lied twice while under oath upstairs here in the grand jury. Did he commit two lies deliberately before a body like yours, larger perhaps, but a group of New York citizens? Did he lie once when he said he did not turn over any State Department documents to Chambers? And did he lie when he said he did not see Chambers after January 1, 1937? That is the indictment in its simplest forms.

Why did we have all this testimony to prove those two facts? Ladies and gentlemen, I think you will agree that if there was a close association certain things probably followed. If there was no association, if the association was casual certain things followed.

In other words, if there was a real close friendship between these two families what did it mean? It meant not only that they were friends but they were in [4682] agreement on their basic philosophy, and if they were in agreement on their basic philosophy they were all Communists. We know that Chambers was a Communist. His wife, although not a Communist, was sympathetic to its views. Now if there was a close association and if they were in agreement on their philosophy then it is probable that each Communist helped the other.

And how did Mr. Hiss help? He gave the documents.

Now on the other side if the association was casual, if they hardly knew one another there would be no reason to have identical philosophies, if they were just casual acquaintances, and therefore it is probable that he did not and could not have betrayed his country.

So that is why we have testimony along the lines of close association, and that is why Mr. Hiss put in testimony of casual association, because each side realized, the Government and the defense, that if you could prove this friendship, then it necessarily followed that there would be the inclination to help a friend. If you could disprove it there would be no inclination.

Now, Mr. Chambers was here for seven days on that witness stand. In my opinion he acted with dignity and decorum. I thought he was responsive, not evasive; sincere, and answered his questions without hesitation, [4683] without volunteering, without explaining in advance.

You will recall Dr. Murray said, "Don't I have any help here? Can't I ask you questions?"

Mr. Chambers did not say that. He was there and subjected to direct and cross-examination for seven days. He

did not ask for quarter. He took what was thrown at him. When he got off the stand, however, he was attacked. He was attacked by Mr. Cowley. Can you imagine, on the stand for seven days and the only question asked of Mr. Chambers in which the name Cowley was mentioned was "Did you know a man named Cowley?" One question.

Now what would you do if you wanted to find out whether he had that conversation with Mr. Chambers, this alleged conversation in 1940 in which he said Mr. Sayre was the head of a CP apparatus? What would you do? Wouldn't you say, "Mr. Chambers, did you see this man at a hotel? Did you say thus and thus to him? Did he say this and that? Are you sure? He says you said it. He says he has a memorandum of it." Isn't that what you would do? Ask him when he was here. Don't clip him from behind. He was here seven days, and then they bring two doctors to tell us all these things about him.

Well, the rules of evidence prohibit either the Government or the defense from bringing character [4684] witnesses for other witnesses. We would be here for years. So I could not bring the people who have known him. The Judge would not let me.

You have to judge these things in their context. Was that the fair thing to do? Was that what you would have done in your search for truth? Or is it a game? Do they want me to bring Chambers back so they can hit him again? Why did they wait until the very last witness to bring in Cowley? There must be some reason for it.

Consider Mr. Chambers here on the stand. What sacrifices he has gone through. How many in this courtroom have thrown away a $30,000 job? For what? To be hit on the head this trial and the last trial, grand jurors, FBI guys running all around? He has not complained about it. He said he voluntarily did it not to embarrass his friends there.

Compare Mr. Hiss: Did he as soon as his name was mentioned say to the Carnegie people, "Here, I don't want to embarrass you at all. I will just disassociate myself with

you''? He hung on to that $20,000. He hid behind the skirts of that almost public foundation.

Mr. Dulles told you what happened. Mr. Dulles was in there fighting to get him out. But ''I will do it a little later.''

[4685] Mr. Hiss was here smiling all the time, charming, equivocating, a little fencing. Those, ladies and gentlemen, are the things that you have to remember in coming to the facts, to get the answer to the facts. You have to weigh those in your minds and judge for yourselves.

What about Mr. Chambers? He was born in Philadelphia. He is 50 years of age. He had one brother. His family moved over to Long Island early, and he said he was brought up with regard to religion,— I think his phrase was—a skeptical indifference to religion, a budding atheist. And that was the training in his home and his family.

You remember his description of atheism; how as a philosophical concept it might very well exist, but in the heart or in the soul of everyone, despite their political beliefs, their outward voting, he said that there was a spark of religion somewhere. Some fortunately had it fanned faster than others. Some had caught on, and it became ablaze, but he was brought up in a family of skeptical indifference to religion so that when he went to Columbia he became part of the intelligentsia.

Bear in mind this was in the 20s. Perhaps it was smart at that time to write a play as he did, but he was man enough to say it was blasphemous. He did not hide [4686] behind the theory other people were doing it. Professor Van Doren said it was brilliant. Thornton Wilder did something like that. No, he said it was blasphemous.

And what happened? He went to Europe and saw the ravages of the war and then he started to read, became interested in Fabian Socialism and he read Marx and Lenin and the work of the Soviets and then back to Columbia and stayed a little while, and then knocked at the door of the Communist Party and said, ''I want to join.''

[4687] He became absorbed in what he thought was the right thing. He had the courage to go down there and sign. How many are there, even today, who are Communists and haven't got the courage either to say so or to sign? But he went down there and knocked at the door. And then what did he do? He did yeoman work. He collected unsold copies of the Daily Worker. A man with his love of arts and letters going around the subways collecting those things. Then he started to write for the paper and became the editor in fact.

And then the Stalinists took over. He was in the middle, he said; he was between the Lovestoneites and the Stalinists and he quit. He said he was a Marxist, though, through and through, but he did not like the faction. But he came back. He went with the New Masses; and then went into the underground, a paid Communist functionary in the underground; divorced himself from known Communists, started to do the work of the Devil, and then went to Washington to head up an apparatus there. Just think of the position he had. He was to head up an apparatus. And he worked in Washington, until in 1938 he saw the error of his ways, he saw the falsity of the philosophy. And what did he do? He quit. He had the courage to quit. But he had a family; he had a wife and [4688] two children. You just can't quit. He had to support them, and he did support them in the way he knew—he did translation work, and he got a job as a book reviewer. And from 1939 until 1948 with a nationally well known magazine, where he rose in salary and in position and in dignity, not because he had friends, not because he had a Columbia degree—he didn't have; he did it all because of something inside of him, intelligence and guts. And he ended up with thirty thousand a year, worked like mad, around the clock twice once or twice a week. And then gets on the flat of his back; right back at it again after seven or eight months of sickness.

And during all of that time, all of that time, only once did he go some place about his work, only once. And when did he go himself? At the Hitler-Stalin Pact in 1939, when he was back in the folds of his original love of country

and he saw the danger there—that here were these two opposite philosophies getting together, and at the insistence of his friend Isaac Don Levine he went to Washington and saw Mr. Roosevelt's top intelligence officer— top— Mr. Adolf Berle, the Assistant Secretary of State. And he told Mr. Berle of the Communist infiltration in our Government, told it from firsthand knowledge. He was there. And he told Mr. Berle [4689] about that.

What happened after that? The FBI came to see him, in 1943 I think. Why 1943? Because Mr. Berle turned his notes over in 1943. He kept them in his drawer or some place since 1939. And the FBI went up to see him, asked him about this and that, and so forth. And then Ray Murphy, from the State Department, 1945 and 1946, went over to his farm. And all the time he is not volunteering at all. He is on his farm and working on Time. Then he gets a subpoena from the grand jury here. Then another subpoena from the House Committee in Washington. Then more subpoenas for this grand jury, then more subpoenas for the first trial and this trial.

Mr. Cross has said that he never told about espionage; told about Communists, made false accusations; and the doctors kept adding, adding and adding. Let's see now. Just what did he tell Mr. Berle, according to Mr. Berle's notes? We don't have a record, we don't have the transcript of the conversation. We have the typewritten notes that Mr. Berle handed to the FBI in 1943. What did he tell Mr. Berle?

Let us first analyze whether or not he falsely accused Mr. Duggan. That is one of the big charges— he is going around falsely accusing people. Mr. [4690] Duggan shows up on page 2 of the report, and it reads: "Duggan—Lawrence (Member CP? ?)" Now, is that saying Mr. Duggan is a member of the CP? Or does it mean that Mr. Berle, when he dictated these notes, either could not remember or perhaps Mr. Chambers didn't know either, and he said, "I don't know." But there it is. This is the false accusation under "State." The first man is "Post." Next "Duggan—Lawrence (Member CP ? ?)."

Then at the bottom of page 3 he says, "Field was original contact. He introduced Duggan to Gumperz (Hede). Duggan's relationship was casual. Shall excuse? Where is Hede Gumperz? Duggan and Field supposed to have been members, have been both members of the Party."

And that, ladies and gentlemen, is the basis for saying that he has falsely accused Duggan. And the Ray Murphy notes, 1945, obviously dictated and copied by a girl the next day; he says Field was described as a member at large of the Party, Duggan was not.

Chambers here said—"Mr. Cross: Do you know whether or not Mr. Duggan was a member of the Communist Party?

"I have no personal knowledge.
[4691] "Did you say that when Mr. Duggan died?
"I did.
"Once?
"Twice."

And that, ladies and gentlemen, is the evidence of false accusing.

But let us see what he told Mr. Berle about espionage. That is one of the big cries—he did not tell Mr. Berle about espionage.

The heading, the first sentence in Mr. Berle's notes: "Underground espionage agent." He tells about a group, Vincent Reno now at Aberdeen Proving Grounds, computer math assistant to Colonel Zoring (aerial bombsight detector).

What do you have to do, hit him on the head? Aberdeen Proving Grounds; he talks about the aerial bombsight detectors.

"Plans for two super battleships secured in 1937. Who gave?"

What is that, canasta or something?

The last note in the Berle report: "Note. When Loy Henderson interviewed Mrs. Rubens his report immedi-

ately went back to Moscow. Who sent it? Such came from Washington."

What did that indicate to Mr. Berle?

[4692] Let's face it, ladies and gentlemen, he told him everything except the numbers. Everything except the numbers. And what happened after he told him in 1939? Did they immediately come running to him? Did the FBI, the State Department security people—"Give us more; tell us this; tell us that"? No. Nothing happened until 1943.

Now, an odd thing about that Berle report. The last name on the list, the last name—who do you think takes the last position on the list? Alger Hiss. The last name. All the other names, four pages, and the last name, "Alger Hiss, Assistant to Sayre, CP 1937, member of the underground Com—active Baltimore boys. Wife Priscilla Hiss Socialist early days of New Deal."

It seems to me I have heard that one before. He told Mr. Berle in 1939 that Mrs. Hiss was a Socialist. Now, that is having pretty accurate information. 1939, Socialist, early days of New Deal.

Now let us see what the facts are in this close association, the facts that Mr. Chambers told about when he first testified, when he did not even suspect that there could be corroboration. He told the story simply, and yet every one of the facts have been corroborated. He said he knew them socially. Mrs. Hiss testified in the grand jury that Mr. Chambers [4693] came to the 28th Street apartment as a social acquaintance— acquaintance, she said, "One of my husband's acquaintances."

When he testified before the House Committee he was there under subpoena trying, he said, to break down a conspiracy of false ideology. He was not trying to put his finger on particular people; he said he was fighting Communism, the conspiracy of Communism; and he told that body that he did not have a grudge. Do you remember that beautiful phrase? He said, "We are both caught in the tragedy of history." He has no feeling of grudge or hatred

against Mr. Hiss. He said he is doing it with remorse and pity. He is doing his job as an American citizen as you would do it in an attempt to rid this country of that plague.

He said he lived in Mr. Hiss's apartment in 28th Street. Subsequent facts proved that that was quite right. Mr. Hiss admitted it.

Of course, the story about putting him up for a couple of days at P Street while they were waiting for the van—they said that the house was completely furnished. Mrs. Hiss said it was comfortable. What did the Chambers and the little baby need until this mysterious van arrived? What was the van going to carry? The place had furniture in it. They had to make up a story about the P Street place because it [4694] was obvious Mr. Chambers said that he lived at P Street and lived at 28th Street, and now we know that those are the facts, they did live there; but he could not put him in P Street after 28th Street because that would make the association too close. He had to play the role of a landlord who was kind to sub-tenants.

Perhaps a good witness would have been Mrs. Joseph Cotton. Mrs. Hiss said that she came while the Chambers were at P Street. She wasn't dressed so nice, Mrs. Chambers wasn't, but she introduced her. She probably could have said, "Why, that was in the fall of so and so." But, you see, that would have been the wrong time. You see, we have to get the P Street visit, the three days of being nice to sub-tenants, we have to get that prior to 28th Street to make sense, because once you get him there after 28th Street it means it wasn't just the ordinary landlord and tenant relationship. These were friends. But we didn't have Mrs. Cotton.

Now, it was at P Street Mrs. Hiss said that Mrs. Chambers painted the picture of the boy. Just picture this couple with a baby waiting frantically for the van that didn't show up, the van with furniture that they would not know what to do with when it got there, but having with her her little pallet, brushes, [4695] oils, canvas, and while waiting painted the picture. And Mrs. Hiss did that very

nicely for you too. She said, "Well, the face was green," I think; I mean gave the artist her due; it was green, she said. She could not recall the shade but the face was green.

Then Mr. Chambers said he had a Ford and that he used to use it; then he said he remembered that Mr. Hiss wanted to give it away to the Communist Party so some poor worker could use it. Well, what happened with that? We find, one, that he had a Ford and that Chambers did use it; and then we started tracing the title of the Ford, and we find what? That it went to a Ford company, the Cherner Motor Company. Mr. Hiss's assignment of title; he wrote the name in himself. Then we look at the Cherner books, "We haven't got any record of it; no records are missing; they are all in consecutive order; that is our name; that is my signature," and it ends up with Rosen.

Now, does that corroborate what Mr. Chambers says? "He had a Ford; he wanted to give it to the CP; he asked me; I asked Peters; he was opposed to it; finally we said 'All right, go ahead if you want to do it.' We don't know what happened to it."

You saw what happened to it. Corroboration: 28th Street, P Street, Ford, disposition of the Ford.

[4696] The rug: there is an interesting item. Mr. Hiss said that when he testified on August 16 he volunteered about the rug. Sure he volunteered. He knew that Mr. Chambers was testifying in secret session, and he knew as a lawyer that they were asking him to put up or shut up. "Tell us. You say this; Mr. Hiss says this. You are at opposite ends. Put up or shut up. Tell us about him and you. Tell us about this association."

So Mr. Hiss figures, "Well, I will throw in the rug; I will tell him I got the rug. I didn't get the rent but I got the rug in part payment," he said.

Just think about that rug, the facts in the case, when you come to consider Count II. Count II says he did not see him after January 1, 1937. We have introduced in evidence, and I am sure you remember it, the testimony of Professor Schapiro; the Armenian rug dealer; the invoices;

the checks; and what do they show? They show that Mr. Chambers spent over $800 getting four oriental rugs wholesale from Mr. Toulokian. He even got a decorator to buy them so he would get the bottom price. He has them shipped to Professor Schapiro who receives them on December 29, 1936, with instructions to send them to Washington to a Mr. Silverman. Four rugs. Mr. Chambers says the [4697] four rugs were supplied by money given to him so as to give these people in Washington in anticipation of putting some of them, and particularly Hiss, in a frame of mind to receive Bykov. But just consider the rug by itself. December 29, 1936, in New York; sent to Silverman, and then Mr. Hiss says, "He gave me a rug; I have it; I have the damn thing. Clidi Catlett saw it. I have it in my home."

Now, what would you do assuming you were unjustly accused, and the man said, "Why, you got a rug from us," and you had a rug but you did not get it from us? What do you do with the rug? You bring it in and say to Mr. Toulokian, "Is this the damn rug?" No. Whom did they show it to? Clidi Catlett. Clidi Catlett said she saw the rug up here in the Village. The thing to do when you are unjustly accused is to come in and prove that that is not the rug. The Government can't go out and subpoena rugs belonging to the defendant. We can't do that. Bring it in here. Let us look at it. Let the expert look at it. "That is one of the four rugs I sold." Bang. Guilty.

No, don't do it that way. He had to do it the way he had done it. He could not bring the rug in because that proves Count II.

Talking about Professor Schapiro, do you [4698] remember when I asked him about the meaning of the word "Tandaradei", one of the poems, and he said, yes, Mr. Rosenwald had been up to see him and asked him about the meaning of that word, suggesting that it had some obscene significance. Do you see the pitch? Suggesting that it had some obscene significance. Well, he looked it up and studied it and said, "It is a German word; it does not have any erotic significance."

Take another bit of corroboration. Mr. Chambers said rather frankly, "Yes. We went out to look at a farm one time up in Westminster. Mr. Hiss was very much interested in the farm. I subsequently bought the farm and the one next to it—the same farm."

I mean just how psychic do you have to get? That is where he lives now. Mr. Hiss said no. "I did not go with Chambers. This was all something my wife and I thought about. We were trying to get a farm and how could he know."

Maybe that is why they said that they left some of the papers in the desk. Do you remember that twist about the desk? Secret. Some papers in it? Can you imagine Mrs. Hiss leaving papers any place—any place?

Mr. Chambers said that there was a Colonel Lamb. He could not tell us about it but he knew [4699] the name "Lamb." Mr. Hiss said there was a man named Lamb when he was on the Nye Committee and he gave him that. How could Chambers know that? All of this subsequently corroborated either by independent evidence or by Mr. Hiss himself.

Martha Pope: Mr. Chambers said that there was a maid and I think he said "aging and ailing maid." He did not know her name but he remembered meeting her when the investigation started here. The same words Mrs. Hiss used: "ailing—ailing maid."

Plum Fountain: now who could think of a name like that? Plum Fountain. He said, "I remember meeting a woman by the name of Plum Fountain."

We saw her. She is a friend of the Hisses. She did go to Bryn Mawr. And then Chambers says, with no rehearsal, he met a woman named Plum Fountain.

He told Berle in the notes that Mrs. Hiss was a Socialist in the early New Deal days. You have written proof of that.

How about the furniture that he received from the Hisses? You remember the story that the Hisses were kind enough to give them little things, a table, chest of drawers,

a rug, when they were setting up house at Eutaw Place. What is the testimony about that? "We have it on our farm today, still have it. [4700] Mr. McLean saw it."

We did not hear from Mr. McLean but Mrs. Murray said that she saw it.

He said he worked on the Washington Railway as a young man. Do you think if he did not work there we would have heard from the Washington Railway people?

Mr. Hiss said he told him that even when Mr. Hiss knew him as Crosley—that gag!—but he said he was a sort of Jack London type fellow; said he worked on the railways laying tracks in Washington.

Mr. Chambers said that they had a Communist apparatus under an assumed cover called the American Feature Writers Association. They were going to send a guy to Japan, Maxim Lieber. And what do we find? From the County Clerk's office a certified copy of the American Feature Writers Association. Chambers' name is Cantwell and Maxim Lieber's Sherman.

Mr. Chambers said there was a fellow named Green at the time on the Nye Committee who used to have charge of the papers. We got Green. We got his deposition. Mr. Hiss said he was the man in the State Department who had charge of the papers that the Nye Committee was using.

The Peterboro trip: the argument against the Peterboro trip, the reason that that is false the [4701] argument is made because the New York Times on August 8th on the theatrical page gave a list of the summer theatres. Peterboro: "She Stoops to Conquer." August 10th. That is why that is false, because Chambers went right back to the Times, looked up all of the old ads, picked out August 10th, picked out Peterboro, picked out "She Stoops to Conquer."

Now there is a pretty busy guy living on a farm in Westminster running up here, I suppose to the New York Public Library, picking out that date. Why that date? Did he know Mr. Hiss was on annual leave then? Why that

day? Why Peterboro? Why not Algonquin? Why not pick another show? Why not pick a place that has burned down? Why pick a place that is still there? And he picked the name of the man that used to own it, Professor Morrison who remembered the show. We checked the show and we found the show and we found Mr. Hiss was on annual leave.

Listen: if he was as smart and as clever a guy to make up all of this why does he have to pick out something where the name is in the book? God, there must have been lots of joints that burned down. Couldn't he have picked those out? No. He picks a place that is right there and gives the name.

In connection with that he said he went up [4702] to Harry Dexter White and he parked at a fork in the road just enough down so the Hisses could not see. He showed you the picture. No contradiction about that. Ladies and gentlemen, that is corroboration.

He told about the trip to Long Eddy. Now when he told about the trip to Long Eddy we looked up the Times and found the ad in the New York Times—Long Eddy. Now that is almost as good as picking out Plum Fountain, almost as good. I think Plum Fountain wins, Long Eddy second, but it means that there is corroboration for a story told contemporaneously. He was subpoenaed the day before he showed up at the House Committee—the day before.

He testified about getting $400 from the Hisses for the car. Of course he had a car. He had an old Ford, but he was planning his break. This was one of the steps. He was getting his confederate unwittingly to help him break and he touches him for four hundred bucks. What is the proof? The $400 withdrawal from the bank a day or two before he purchases the car.

They don't say we saw the account, the bank book. No, they don't say that, but sort of sidewise they said, "Well, perhaps the Bureau, the FBI, they subpoenaed that bank account late in January 1949." [4703] And then he drops it, just sort of leaves it there, sort of making the FBI

a defendant, conspiring with Chambers to suborn perjury here—the Department of Justice suborning perjury!

Easily enough. When the man from the Schmidt Motor Company was here he was asked "When was the FBI around to see you?" "I don't know, May or June." He didn't remember. That is pretty good investigating; getting the bank account in January and telling Chambers about it and Chambers saying, "Yes, I used that to buy the car." And then not go over to Randallstown to find out whether there was cash paid for the car or old coupons. Ladies and gentlemen, the $400 payment for the car and the withdrawal is cogent evidence of the duplicity that you have been hearing here, and the reason that they complain about it is that they have not had as long a time to alibi it as they had with other things. You see that only came out at the first trial—that is June. Everything else was in the pre-trial depositions in Baltimore or in Congress, but this they have only had since June.

And how about the Mercy Hospital letter? How was that explained? There it is there. May 25, 1937. Mrs. Hiss writes to the University [4704] of Maryland saying that she wants to take a course in inorganic chemistry because she is interested in something at the Mercy Hospital. Mrs. Chambers told us that that was a subject of constant conversation—constant conversation. How did Mrs. Chambers know about Mercy Hospital if Mrs. Hiss saw her never after P Street? And bear in mind under the Hiss's interpretation, P Street came before 28th Street, and here is Mrs. Chambers telling about a conversation concerning Mercy Hospital in the pre-trial examination long before the exhibit is found—long before the first trial. You can try all day and never explain that one away. Never.

Of course Mr. Cross says she did not go to Mercy Hospital; she was not attending. Mrs. Chambers said that she was talking about it—talking about it.

And how about the explanation of both Chambers with regard to the different houses these people lived in? How could they tell how the furniture was disposed in the

rooms, the colors, the outside appearances? Did the FBI go out and get all of that for them and get it to them? They must have been there. They must have been friendly. They must have been intimate. You just could not have all that knowledge unless [4705] there was a real friendly association for a long period of time.

There has been a great deal of discussion, almost it seems to me every time a witness got on the stand that knew something about Washington, Mr. Cross asked whether or not there were windows in that wall. Now I am not too sure why he did that. I suggest that the reason was to suggest to you by repetition that that is perhaps what Mrs. Chambers said. But you remember when I had Mrs. Hiss on the stand I said, "This is what Mrs. Chambers said: the wall had no windows. There was a little gate," she called it a door. I called it a gate.

Then we got into that very learned discussion as to whether you could put a rail on a stone wall or a brick wall. I called it a stone wall, but Mrs. Chambers said that there was forsythia there. That is what Mrs. Tally said. She said that the wallpaper had a plum or mulberry design. That is what Mrs. Tally said—the owner. There was a brick terrace. You saw the pictures.

Mrs. Chambers said that wall was white. It is red. Look at the pictures Mrs. Tally produced. They look white to me. Geoffrey May, one of the defendant's witnesses, a neighbor, he told us it [4706] was white. What difference does it make whether it was white or brown? It was a wall. There was a step there. There was the forsythia. There was the plum-colored wallpaper. There was the chintz.

And bear in mind Volta Place, as far as the houses were concerned, did not come into the picture until January 1, 1938, a day or two before 1938, so we start with an association in the 28th Street house. Even starting with that, Chambers said it started in 1934 and he moved into 28th Street in 1935, up to 1938. That is a real friendly, close association.

Now a great to do has been made about Exhibit No. 10. There is no mystery about No. 10. I told you in my

opening that it was the only typewritten document that was not typed on the Hiss machine—the only one. Mr. Cross knew that. Everybody knew that. It was brought out on the last trial. We knew that the underlying document had no stamps on it. So what?

Mr. Chambers, in my opinion, exemplified an honest man when he was asked about it. He said "Perhaps you are right. It looks like the stuff I got from Harry White." He did not have to change his mind. Nobody could do anything about it. If he was lying he could have kept on that lying, "I don't care where the underlying document came from, I got [4707] it from Alger Hiss", and what could they do about it? Nothing. But no, he looks at it and says "Well, it looks like the stuff I got from Harry Dexter White."

He identified other stuff that he got from Harry Dexter White. I marked it for identification. Mr. Cross objected to its being put in evidence and it is not in evidence. Is that the actions of a man who is lying for a purpose, confronted with something without ever having told me? He said "No. You are right."

Remember he said, "you got a first for someone there." He admitted it. He did not try to worm out of it at all. He admits that like a man. That is one exhibit which we could not prove anyway. I told you in the beginning it was not on that machine.

One of the problems that one of the jurors might concern himself or herself with, which gets back to the question of reason and emotions: how could a man like Mr. Hiss do these things? You hear it all over. How could he do it? "So handsome, gee, how could he do it?" Well, analyze it this way and say if he did it he is guilty. Supposing you start off with that: if he did it he is guilty. Fine.

Take Mr. Wadleigh. Is that a good analogy or not? Mr. Wadleigh's father was an Episcopalian minister sent to Europe and put in charge of a church [4708] in Paris. He brought his baby son there. He was educated in Europe, had an Oxford degree which let us compare with that of the Hopkins degree, so that is fine. Then he got an M.A.

from the University of London. Well, Mr. Hiss went to Harvard and he went to Kiel, a course in Germany, and then took another graduate course in the University at Chicago. Assuming it is even now, the education and social standing is even and he too ends up in the State Department and he is not a Communist. He said he was not a Communist. He was interested in Socialism, Fabian Socialism, the same track Chambers started on and he gets down in the State Department and he wants to volunteer. They can't hold him down; volunteer against what? He wants to volunteer against the rise of fascism and Nazism; he wants to help stop it, and in his opinion the only people doing anything about it are the Russians. He wants to help stop the rise of that ideology that he did not agree with, that he hated, that they all came to hate. But he saw it early, and what did he do? He went to somebody and says, "I am over there in the State Department. Can I help? Can I give you anything?"

Now if Wadleigh can do it, Hiss can do it. There is no particular charm about it. The [4709] analogy is there. Let us stop this argument, how could a man like that do it? We are not going to judge these facts by asking ourselves those questions. You have to analyze the facts here.

Now Mr. Wadleigh was here. I called him. Why did I call him? Because Mr. Cross indicated that Mr. Wadleigh was the thief, not Mr. Hiss, but Mr. Wadleigh was. So I called him. They did not call him. I called him and he told his story here and he told you the story I have just told you now and he looked at the microfilms and said he was in the Trade Agreements Section, "They might have gone over my desk. I don't remember them. I was not competent to do that kind of work and I did not do that work. Somebody else did it. Darlington's name is on it."

Gee, don't you think he would have got down at the bottom, at the bottom of the boxscore somewhere? He was one of the big economists there, but he does not even get in the game. He does not remember it at all. Mr. Cross said the microfilm was a one-man job; it was photographed by one man; the group of papers were stolen by one man.

Well, they just cannot explain the last three telegrams in that set. Mr. Wadleigh said if he saw anything like that it would have been a rich find— [4710] a rich find. He was probably getting the stuff that was really going out to the newspapers the next day. He was low down on the ladder in the Trade Agreements. If anything like that came across his desk, those telegrams from Bullitt, strictly confidential, he said that would have been a rich find.

Of course they had Mr. Hiss's initials on them. He had to explain that. He just did not explain it. Those are the telegrams that Mr. Hiss took, all of those documents were in Mr. Sayre's office, and I will come to that in a minute.

Now another witness the Government called to corroborate the association, to show that there was an inclination, an inclination to do this vile thing.

We called Mrs. Massing. Now she, too, was a Communist spy. Of course Mr. Cross complains, "Well, you got spies against us." How do you trap a spy? How do you trap spies? Do you think we can call Secretary Hull? We have to have the guys they worked with. This is all pretty secret stuff, pretty secret stuff. So we call the people who were conspiring with them.

Now, Mrs. Massing said that she was first married to Mr. Eisler. You can see she moved up on the top echelon in that business. And she came [4711] over here, and in 1935 she was doing a little operative work in Washington. And she was trying to get Field, and she ran into trouble because Field had another sponsor. So they had this dinner meeting, and she tells Hiss, "This is my guy, leave him alone." And they get into an argument. And she says, "We are both working for the same boss. What is the difference whether you get him or I get him."

Now, doesn't that show an inclination to be a spy? Doesn't that show a probability that he gave these documents to Chambers?

To counteract her testimony they bring in Mr. Rabinavicius. I think his testimony can be summarized the way

somebody else has summarized it. He proved conclusively two things, two things conclusively. One, there was a party some place. That is clear. And two, the man that gave the party and he are no longer friends. That is his testimony, that is his testimony. Of course they tried to bolster it up a bit by saying, when Mr. Hiss was on the stand, "Well, after you had this interview with her in the FBI office you and Mr. McLean wrote a memorandum?"

"That is right."

Then the memorandum was mysteriously marked, stamped. Bang! Gone. That is all we hear about that. [4711a] But you see, it adds a little corroboration in absentia, not quite here but some other place. They don't want you to look at it, but it is corroborated. Don't worry about it, we got it; some day next week we will show it to you."

This might be a good place for a recess, if your Honor please.

THE COURT: We will take a little recess.

(Short recess.)

[4712] MR. MURPHY: "Oh, what a tangled web we weave when first we practice to deceive."
"Oh, what a tangled web."

Now, Mr. Cross has said, and the Judge will charge you, that there is a presumption of innocence that you have to consider when you get into that juryroom. They say that the presumption of innocence is a cloak for the innocent. That is true. But, ladies and gentlemen, it was not made by Omar, the tentmaker. It just isn't tremendous. It can be filled with holes. Each time (striking typewriter keys) a hole (striking typewriter keys). The presumption of innocence theory was made for the innocent. It is not a shield for the guilty. Just keep that in your mind when you are in the juryroom and see whether or not the cloak isn't full of holes.

Now, I have said this before and I am going to say it again. I think it is important. You should not be deceived by looks. I think Mr. Hiss is a prototype. He is the

example of what a lot of people here named, we named in the trial, resemble. I think he is the prototype of Pressman and Witt and Abt. You should not be deceived by those outward appearances. Shakespeare said, "Seems he a dove, his feathers are but borrowed."

Now, Mr. Sayre, his boss for so many years in the State Department, probably gave you the best report on [4713] him. He said half thought he was a man of integrity. Half. What about his other bosses? Judge Frank, who was his boss in the AAA, upstairs on the 17th floor, where was he? Mr. Justice Byrnes was his boss in the State Department. Where was he? He mentions Judge Patterson in alternate breaths. Where is Judge Patterson, Secretary of War? There are a number of people who could corroborate what the situation was. Where is Maxim Lieber? There is the man who would explain Smithton. There is the joint tenant with Chambers, the man that paid half the rent. You heard his name is right in the Manhattan phone book. Mrs. Joseph Cotton, as I said, didn't show up.

Maybe Miss Newcomb, the other secretary in Mr. Sayre's office, if called, would say something. What would she say? I suggest she would say the same thing as Miss Lincoln. And talking about Miss Lincoln, I want to personally pay respect to that lady of integrity, 30 years for the Government—30 years. There is a civil servant. Is she lying on that stand when she tells us about the practice in that department? Why should she lie? And she was Mr. Sayre's secretary. Can you imagine somebody trying to get into Mr. Sayre's office over her dead body stealing documents? Miss Lincoln said that carbons accompanied these documents as a matter of course. [4714] Anybody who has worked for the Government can tell you that there must have been thousands of carbons travelling around with these documents. This is the paper age— carbons, carbons. Good Lord! And they are trying to tell us that carbons didn't go with these documents.

Perhaps Mr. Gilliat would have told us about the lease. He was the agent; he had done all of the committing. Maybe Timmy Hobson, the boy himself, could tell us about

the doctor's visits in Chestertown, his father and mother staying there or going away.

And how about the tipster, the mysterious guy who told Mr. Rosenwald about "Why not look in the Passport Section for the Breen passport?" How about that guy? Do you think he really existed? Don't you think that if they got a tip—you could make one up almost: "I got a mysterious phone call. Look in the State Department for Breen."

How about Pressman and Witt and Abt, and Henry Collins, all of these people who were friends? Why weren't they here? You don't suppose it is because perhaps I had a file on some, do you? You don't suppose that they were afraid to sit there (indicating witness chair)? And these were his friends, the maids told us, at the house discussing office affairs on Sunday. They couldn't see enough of each other during the daytime, the week time, [4715] but had to come on Sundays to discuss office matters.

And now he wants us to give him a medal because he didn't claim his constitutional privilege when he testified before Congress. He went to the grand jury and answered the questions. He did not claim his privilege. He was a citizen, but he waived it.

Can you imagine his job sort of hanging that way, twenty thou, and he says, "I won't answer because the Constitution says I don't have to"? Twenty thou. He sent a telegram and said, "I want to answer." It would look silly getting down there and saying, "Yes, I sent it, but the Constitution says I don't have to answer."

Why, he would not only have lost his job, but just think of the position he was in. He had to admit or deny—admit or deny—fish or cut bait. If he admitted—bang. Everything crumbles at once, the job to boot. So you deny, you accuse, accuse the other guy, yell cop. That is standard CP practice, isn't it? Accuse the other guy, accuse me, accuse the Judge, everybody.

He had to forswear his association with Chambers; he had to deny it, because the American public got the

picture—what was he doing with this guy? He couldn't do that. He could not do it and hold on to the job. He could not do it and hold on to these friends who have come and have stood by him. He just could not do it.

[4716] If he got a rug, as I said, and he did not get it from Chambers because of what Chambers says, if he got it in 1936 when he was living in P Street, shouldn't he have brought it and have the expert look at it and say, "Sure, that is not the rug I sold at all. Of course not."

Isn't that what you would have done? Of course.

And then that P Street shelter for wandering sub-tenants. Now there's something. A P Street shelter just for sub-tenants—and I have been paying rent all these years. This is the landlord I am looking for. Waiting for a van.

And then that 28th Street lease. There is the legal mind for you at work, the legal mind at work. Some moocher comes and says that he would like to move into your place, can't find an apartment.

"Oh, I have got just the place for you; it is full of furniture."

"Gee, that's swell. How much?"

"Just cost. Just what I pay."

"Fine."

"Do I have to pay in advance?"

"No, let it ride."

"How about the gas and electricity?"

"No. I will even throw in a phone."

"Gee, you're swell, Mister."

[4717] "Don't mention it. I will give you a Ford—I will give you an old Ford with a sassy trunk—give you an old Ford with a sassy trunk. Don't worry about the rent. Just move in. Just move in."

A lawyer for six years at that time, admitted to two bars; working for the Department of Justice; Harvard; Harvard Law Review.

And that $400 withdrawal from the bank to buy furniture for Volta Place: Can you imagine having a charge

account and having a checking account and being two blocks away from the bank—you got a path right to the bank from cashing those $10 checks every other day; you have got a path over there, and you are going to move into a house; so you draw out $400 in cash to pay for furniture and furnishings in cash. Then when you need $10 for household expenses you don't take it out of your pocketbook, but you go to the bank and get 10, another 5, another 10, because this $400 here in the sugar bowl is only for furniture and furnishings.

Why, that is ridiculous, aside from the fact that the lease wasn't made. But leave that for later; but just drawing out $400 in cash for furniture when you have a checking account and when you have charge accounts, and you can't use the furniture until you move in.

Now, he would like to help us with his checkstubs, [4718] but he just doesn't have that because when he came up to New York in September of 1947 or November of 1947 he figured that ten years would be a nice time, just go back ten years. So starting right with November 1st and going right back for ten years, destroy your checkstubs and vouchers. Don't get into 1938 because that would be ten years and two months. Make it exactly ten years and then nobody can see anything.

You see, if we had the checkstubs and perhaps the cancelled checks and there just happened to be a bank stamp on the back of one "Joe's Bar and Grill, Peterboro," what happens? Well, we will concede Peterboro. But you don't have the checkstubs; you destroy your checkstubs for ten years going backwards from Peterboro.

This was a family who saved an appointment memoranda pad. Can you imagine saving a 1939 memorandum pad? I'll bet you if she looked she could pick some cards, maybe a Party card might be there; perhaps a Socialist Party card; perhaps other cards, if she looked.

Now, he said when he testified before Congress on August 5, "The name Whittaker Chambers means nothing to me."

Now, just how was that mind working when he said that? Did he mean that he didn't know the name? Did it mean that he didn't know the man that the name was attached to? Did he mean that he had no present recollection [4719] of the name? He had heard the name in the grand jury in March of 1948; he had heard the name from two FBI agents in 1947; he heard from a lawyer friend of his that some guy by that name was calling him a Commie; he heard all that, but "The name," he told Congress, "Whittaker Chambers, meant nothing to me."

Now, I wonder, was he making some sort of a mental reservation like he made when he was talking to the trustees of the Carnegie Foundation when they asked him? Do you remember when Mr. Bullitt said—"Did you testify in Congress and did you say"—I am talking about Mr. Justice Byrnes—"I particularly checked with Mr. Justice Byrnes, I particularly reminded him. He agreed with me. I checked with him specifically. It was his impression, as I recall it." All of those words were used by Mr. Bullitt; and I asked, "Did you say that?"

"Yes."

"When was it that you talked with Mr. Justice Byrnes?"

"Oh, I didn't talk with him. I had Mr. Acheson do it. That is what I meant; that is what I meant. That is what I meant when I said I particularly checked with Mr. Justice Byrnes."

So you get a quick picture of what he meant when he told Congress that the name Whittaker Chambers meant [4720] nothing to him. You don't suppose that a man of his intelligence—and don't sell it short, ladies and gentlemen; it is there—you don't suppose that a man of his intelligence when he heard the name Whittaker Chambers back in 1938 lost track of it? Assuming that he didn't know it in 1938, Mr. Chambers says when he came back there at Christmastime, he said, "We know who you are," but assuming that that didn't happen, but assuming he heard it only in February of 1948 from a lawyer, how long do you think it would take him to find out who and where is Whittaker

Chambers? A man on the masthead of a leading magazine getting 30,000. Would it take him long with his friends? He found the name of the man who wrote to Mr. Dulles. Mr. Dulles did not tell him. Mr. Kohlburg. He found out that name. Now, he has friends, intelligent friends. He didn't have to find out. But he told Congress that the name meant nothing to him; he would like to see him, like to see this guy that says that he was a member of an apparatus together with eight or nine other fellows.

So what happened? On August 17 in this city up at the Commodore Hotel that request was satisfied.

Now, what happened at that confrontation? He had told Congress a little while before that there was a fellow named Crosley that he knew, sort of a free lance [4721] writer—and I will give you an idea on that free lance writer, how that came into being. That was not just born. There was no spontaneous birth about that.

Bear in mind Mrs. Chambers said that when she was trying to get her little girl into school in Baltimore, the Park School, that it was Mr. Hiss who recommended the Park School. He knew that. I'll bet you within a week after Chambers quit in 1938 he was over at that Park School checking and he saw the letter then, "My husband is a literary agent, a free lance writer," and he stowed that away. He said, "I will use that. I will have something to grab on in my half-truth."

So what happened at this confrontation? He wanted to see whether this man whom he knew as a free lance writer, to whom he had subleased his apartment, was Whittaker Chambers. So there they are face to face. The man there as he looked in 1935 (indicating), but he couldn't recognize him. He had to have him say something. Then he asked the Committee, "Is the pitch the same, the same resonance? Well, read something."

So he reads something. Can't quite place him yet.

"Have you had much dental work done?"

"Yes."

"Can I look at your teeth?"—this is a new twist now—"look at your teeth?"

[4722] All right, he looks at the teeth.

Then he wanted to know the name of the dentist, that will help him remember. You can see the mind at work here. The name and address of the dentist.

Don't hit that thing yet. Still had to press.

Then he said, "Were you a tenant of mine," or words to that effect. "Did I sublease my 28th Street apartment?"

"No, you did not."

"Well, were you ever there?"

"Yes, I was there."

"You stayed in my 28th Street apartment?"

"Yes."

"And you didn't lease it from me?"

"No."

He said, "How do you explain that apparent inconsistency? I did not lease it to you, yet you stayed there?"

Mr. Chambers told him what the facts were—"We were two Communists together and you gave it to me."

"I recognize him now. That is George Crosley."

Now, ladies and gentlemen, that is real first-class acting, real, first-class, and I am going to tell you a little story because I want you to remember that. Sometimes you can remember things with a laugh.

[4723] Since this thing started in August 1948 this father was telling his child a story, and he got off into some story that he couldn't finish, and he got talking, and there was a talk between the giraffe and the hippopotamus, and the giraffe says to the hippipotamus, "I don't remember you at all."

The hippopotamus says, "You must remember me. We were in the jungle together, the two of us; we were friends."

He says, "No, I don't remember you."

But he says, "You must. We lived together. We ate together."

"No."

So the giraffe says, "Let me see your teeth."

So he looks and he says, "Oh, George Crosley, I know you."

George Crosley my aunt.

Mrs. Catlett didn't have to know about the teeth or look in.

Do you remember when Mr. Cross showed her the picture from the passport, that picture there that nobody can remember? She said, "Why, sure, that is the man. That is the man." That is all without benefit of teeth.

And Mrs. Murray, she remembered them.

Even the doctors tell us that bad teeth are [4724] important, so you can just see how silly this thing can get.

Now let me just touch on some of the things with respect to the second count. The second count is so simple—"I did not see him after January 1, 1937."

The rug: It seems to me that that proves it right there. You have got the documents; he admits the rug; Chambers says he gave him the rug.

Now the New Year's party, the New Year's Eve party, 1936-1937. That is not true, they tell us, because they were up in New York at that time, had left a couple of days before and did not come back for quite a while; the boy got sick—chickenpox, you know. Well, what did they prove? They proved that the doctor treated the Fansler children. When? Around Christmas.

There was a letter introduced in evidence written near the end of December 1936, and then I came along and proved that Mr. Hiss did not leave his job any day. No leave record. Then I had the nerve to bring Dr. Nicholson. She said, "I saw the boy on January 2."

I thought I brought Dr. Nicholson. Mr. Cross says it proves it. Proves what? Proves that she was a little wrong. She was back on January 2. They were there for that party. They never went away. They were back for the New Year's party.

[4725] She told us the story, Mrs. Chambers did, of the party up at Mount Royal Terrace, about Mr. Chambers getting sick, about drinking the champagne. She describes

the housewarming party in Volta Place; the $400—what better proof do you want, in 1937, than the $400?

Chambers' testimony; the bank records; the records of the car; the phoney explanation of the spending of the $400; Mrs. Tally's explanation of the lease—it had to be that way.

Now let me before I forget it just touch on the rug. Why was that rug put in storage in September 1937 and kept there all of those months, some 15 months? Why?

[4726] I thought that Mr. Cross was going to say with regard to Mrs. Murray, that lovely girl that we had near the end of the trial, the maid from Baltimore, the maid for the Cantwells, I thought Mr. Cross was going to say, "Well, you got us on that one. We were wrong by a year but it only brings us into 1936." I thought that was what he was going to say. I could not think of anything else that he could say about that lady. She testified, I thought, rather frankly. She was, in my opinion, the essence of simplicity and truthfulness. There was no prompting. Everything was done to avoid any criticism of prompting. She did not know what it was all about. She came up here the very first day of the trial. I did not bring this out but Mr. Cross brought it out, and they left her in the hall there and not on the steps and she said she noticed him right away.

She remembers talking to Mrs. Hiss when Mrs. Chambers went to New York for prenatal care; she was washing the baby. She said, "Do you have a child of your own?" And she said she had a boy. I thought that did it. I thought that there was a witness that really put the lie back where it belonged.

But no, Mr. Cross told us he does not think she did it wilfully. He thought she was deceived a little [4727] bit with auto-suggestion; that the agents were sort of putting her in a proper frame of mind, and then they got her out to the Chambers farm and some more of that auto-suggestion. And then the clincher, and this really did it, and he tells us what happened was that it was the Maxim Liebers who came. I don't know whether Maxim Lieber looks like

that clock. I don't know what he looks like. Maybe it was some motion picture actor and his panda that came. Who knows? Maybe it was Maxim Lieber? God, they can do better than that. Maybe it was Maxim Lieber!

Ladies and gentlemen, if they lied on this stand here they lied in the grand jury. You don't have to lie if you are telling the truth. They don't have to lie about being in Baltimore, but you see the thing started to roll and he kept getting deeper and deeper. His worst mistake. He went wrong once. The score was even in Congress. Chambers says he was. He said he was not. They are even. That is when he should have picked up his money and gone home. No, but he started to get cocky then. He thinks he has him on the ropes because his friends are spreading stories and things—crazy. He is this and he is that. "I got him now. I will make him put up or shut up. He could not possibly have anything left from those days. I will make him put up." [4728] So he dares him to call him a Communist that he is, and he does, and then he is confronted with the documents on November 17th. Then he is in trouble. What happens? The score changes a little bit. Now there is corroboration. Now the golden calf is here.

So what happens? A lot of quick thinking. December 4th the FBI take a long statement from him with his lawyer, that guy from Baltimore who wanted to know where Mrs. Chambers' mother was born, because it has some relevancy to the lawsuit, and he wanted to be there with his client, Mr. Hiss, and they were in the FBI office. He got up out of bed and came down on a night train and he was there for hours helping dictate the statement and getting a phone call from Mr. McLean in New York, "The typewriter was Woodstock," and what does he say in the statement? He says only he does not remember the name. "Yes, it might have been Remington; not sure," helping the FBI all the time; always helping. Then he said he thinks it was sold after 1938 to a secondhand dealer in Georgetown. You know, helping again; getting the agents out looking for that typewriter in stores, getting them going, always willing to help, as you see he was a lawyer and he knew the typewriting be-

came important. It had to become. "If those are State Department documents as they subsequently turned out to be, and if it is on my [4729] typewriter I am in." He is in. He is in where he should belong, but he tries to help the FBI to find it, and she helps him. She says she again saw it in Volta Place and she thinks back, she sees it there. She thinks perhaps she sees it in the new P Street house, the house they bought; doesn't remember the name. That is a hard name to remember, "Woodstock." She could name all the others, could not remember that one. I suppose some sort of a mental block does come when you don't want to remember things. But, anyway, she could not remember. Anyway, she told the grand jury she could not remember.

Another instance of helping the FBI find it, Clidi Catlett died, the maid with them in between 1935 and the 1938 period, poor girl, dead. "I know the name of the maid we had back in 1934. Will that help you? And I know the maid that came after Clidi, Drusilla, but that other poor girl"—always willing to help.

Then she had a portable. She had that. She could not tell where she bought it or when or what its purpose was. This is in the grand jury, not being able to remember.

She could not remember the mustache on Mr. Chambers. As a matter of fact, this educated girl with two degrees in postgraduate work, all that she could remember about Mr. Crosley was that he was short and round and laughing. [4730] That is all she could tell. He had been to visit her in the 28th Street apartment, or visited Mr. Hiss. She had him as a guest for three days. She was there the night he brought the rug. She always had that Ford warmed up for him in case he wanted to come out and get it. They were running out keeping the motor hot, keeping the tires inflated and having it ready for him, and she remembers that he was round.

They were really helping the FBI get standards of comparison, because once you had the typewritten sheets to compare with the Baltimore documents, that was the case. And if they say, "Here is this Bryn Mawr report that

we happened to notice when we were looking at the Bryn Mawr report a couple of months ago? That is typewritten."

[4731] Did they suggest going over to the University of Maryland? You remember the writing of a letter to them. No. Did they bring in the Timmy Hobson letter, the one about the boy's characteristics when he was going to that school? No. They brought in one letter to an insurance company, not thinking that the FBI might write to an insurance company. No. They also brought in one, an appendix of mythological gods that the boy had written—when we don't know— but on a different machine. Always helping, always helping.

Now, Mrs. Catlett and Mrs. Murray I think testified to two very important things. Mrs. Murray, if you remember, the other day said that when Mr. Hiss came she remembered his smile, and the thing that she remembered most was the difference between the two people, the difference. Now, she didn't mean the physical difference. Because Mrs. Catlett in her statement, which is in evidence, when she served tea to Mr. Chambers remarks in her statement that he was not the type of person usually in the house. Now, that is some more cogent proof of the association. And it proves that they didn't care how each other looked as long as they agreed with Marx and Lenin. What do clothes mean? "We are agreed in our philosophy."

Now the Breen passport. If Mr. Hiss didn't [4732] know, way back in 1935, that Mr. Chambers had applied for and obtained a passport in the name of David Breen when he was going to Europe on another Communist mission, how did they know to go to the Passport Division and ask for passports? They could have written to a thousand places. But why pick out the State Department for passports? Why didn't they write to insurance companies? Or why didn't they write to some vital statistics bureau, and so forth? No. But they picked out the Passport Division.

Mr. Davis, their Washington representative, was there last summer. They knew it was there because they were friends together. He confided in him, he told him. They were

up there at Smithton, too, when Mrs. Chambers remembers painting that Delaware River canal—the canal by the river.

But in any event, you can see this thing gathering speed as it gets up nearer to Christmas. We are past November 17th now. The typewriter becomes important, the specimens become important. And what do they do? They have to do either of two things: they have to get the typewriter out of their house in some way, have to get it out because if they can get it out they can blame anybody else. Yes, it used to be theirs, but they didn't type it. So what do they come up with? They come up with the [4733] story that they gave it to the Catletts. Why? It was a wreck, it was an inefficient machine. They went out and bought a portable for Timmy to learn typewriting.

Can you imagine, having that machine in your house, a boy who wants to learn typewriting, going out and buying a portable? And bear in mind that bank balance was always around $14, $14.46. They were long in typewriters and short in money, and short in memory. Three typewriters in ten years for a women who was a longhander, a longhander, who didn't use the touch system, who can't tell us whether it is easier to work on a standard machine than it is on a portable. She can't tell us that. Why, the work she was doing on that, the portable would be jumping all over. You couldn't hold it down.

But they picked the Catletts. They are stuck with the Catletts. That is their choice. The Catlett boys say they got it at a move. They fix the date because, one, they say it was at a move that the Hisses made. They fixed it also because they said that they were living at P Street and because within a short time he took it to a repair shop. That is the Catlett story.

Mike Catlett said that when they moved into P Street they were going around with candles for a month or so. Why, that blew up when the electric man was here. The same day that it was turned off on 25th Street it was [4734] turned on at P Street. Sergeant Roulhac said that they

moved in one day ahead of the lease. They had no lights that one night. But it helps. It puts the time different. You see, by saying that they were there without electricity he gets it in front of the lease so that it might coincide with the moving.

But you just can't do anything with documents at all. There it is. They don't change. And the electric company says, "January 18, 1938, electricity turned on." Mr. Cross thought he scored when there was no gas. They didn't use gas, they used coal.

Well, Sergeant Roulhac comes down here and Mr. Cross asked him, "What is that X doing on the lease?" I suppose that was preliminary to finding out whether he could write or not. The sergeant says he doesn't know. Then I asked him, "Can you write?" And he said, "Of course." But, you see, it adds to the mystery a little bit if you can just have a sergeant not writing.

But the sergeant says, one, we moved in there on January 17th, and here is the lease, and I didn't see the typewriter there, although I was there every day and night for about three months, later saw it in the hall.

Now, Perry Catlett says in a signed statement that he took it to a repair shop within a short time after he got it. And he tells the agent where the repair shop [4735] is—the northwest corner of Connecticut and K. And we go there and we find the place doesn't open for business until September. Well, maybe the boy is wrong in his belief, maybe it was the other place on K Street, farther down. All right. That opened in May.

Now, what probably happened was that the Catletts did in fact get the typewriter. When? When Chambers quit, when Chambers broke with the Party they realized, "Well, we haven't got the—we got that rug stored away. The only thing remaining to get us into trouble other than his word is the typewriter. If they find those instruments we are sunk."

So what do they do? If they sold the typewriter they might be traced. If they brought it over to the bridge going

to Roslyn and dropped it in the Potomac, somebody might see them. Guilty knowledge. So they give it to their trusted maid's children, knowing full well that they didn't type, that it would be put to abuse and gradually disintegrate, gradually.

But what happened? When the FBI started to look for the typewriter in order to get other specimens, when it became important at the end of 1948, beginning of 1949, and they finally found that there was a Catlett, and she wasn't there, and they go to the boys in January 1949, [4736] and the boys say, "We don't know anything about the typewriter," and that day go to Mr. Hiss's brother.

Don't you think that that was by prearrangement? "If any agents from the FBI come looking for a typewriter, bear in mind I went to your wedding, if they come to you, you go to see my brother Donald."

And that is how the typewriter was found. It was found after it became, for all practical purposes, useless to us. We had the specimens, we had the very letters Mr. Feehan could compare with the documents, so that the actual typewriter didn't mean anything. But we have it here to prove that it wasn't a wreck. The girl, Burnetta Fisher, used it in school, and Mrs. McQueen used it, and that man from the FBI used it. No trouble. You wouldn't let your boy learn to type on that?

Now, I asked a number of questions of the Hisses. Why did they have that extra typewriter? The testimony is that the law firm rented a typewriter for three months, exactly the same. Mrs. Hiss said she typed on it once but she wasn't told why, wasn't told why. Mr. Hiss thinks he saw it once in the law office but wasn't told why they had it. Why do you think they had it? It couldn't be that Mr. Hiss couldn't remember a Woodstock; he wouldn't have to actually get the machine and say, [4737] "That is a Woodstock machine." You could get a picture of one. But why did they rent one for three months?

Now, ladies and gentlemen, the proof, as you can see it, as it was presented to you, has been previously melting into some sort of a form back in 1948. The grand jury was in

session in December and they were hearing this story. They heard Mr. Hiss, they heard Mrs. Hiss. They had the documents, they knew about the typewriter. The expert says that they are the same. "Get Mr. Hiss back."

"Tell us, did you hand over State Department documents to Mr. Chambers?"

"Never."

"Did you see him after January 1, 1937?"

"Never."

You can see how the lie grew. You can see why he had to lie there. And that is why he is here today. He is here because those documents put him here. That was the missing link. They had to have the documentary proof. And we have it. What does he do? Who does he say did it?

Bear in mind you arrive at this stage: They are in fact State Department documents, they are secret, confidential documents. There is no dispute about that. They were typed on that machine (indicating). Our man [4738] said it was. They said their experts told them it was. So we are almost conceded that that phase of the case is gone. You will be shown that the documents, from the exhibits, actually went over his desk. So what is missing? Nothing.

But what does he say? Who did it? "Wadleigh did it. X did it. Y did it. Anybody but me. Blame anybody." Is that the action of a coward who is cornered, pointing frantically at people, "He did it, he did it, not me"?

Talk about accusing people! When Mr. Cross throughout the trial and summation was pressing the point as to who did it, I kept writing names down. I first wrote "Wadleigh." Then we went on to some Japanese—Far Eastern Division. I figured they are going to come up with some Jap, because in the beginning he said, "That's Japanese flimsy paper." I thought that was the connection. Then he said there was a pipeline somewhere. Then we had that mysterious business about Lovell, X, and Y. You just couldn't put your finger on it. Then I thought—Pasvolsky; this sounds Russian, let's use that one. Oh no, you just can't tell where it is. "It is anybody else but me, anybody."

Now before I get into the documents I want to say something about these asides, that sort of whispering out [4739] of the side of your mouth, sort of—I am not proving it but I am dropping it in your lap to see what you can do with it. That old theory about, "I am not going to say anything about Joe, I am not going to mention Joe; the fact that he had a gun in his hand and shot somebody, I am not going to talk about that. The fact that the man he killed had three or four children, I am not going to mention that. I am going to skip all of those bad things about Joe."

Listen, Cicero did that 2000 years ago. That is old stuff.

"I am not going to say anything about the FBI; no, I wouldn't accuse the FBI." And then, "Who do you think got that—who do you think got that—who were the inves—I am not going to say anything about the FBI, I wouldn't say a word about the FBI. Who do you think—er—dug up that—who was it that—". No, he isn't going to say anything about the FBI. This is the open season on the FBI; everybody is taking potshots at them. It is the party line to do it. It is the party line.

If you think that any bit of evidence in this case, any bit, material or immaterial, was manufactured, conceived or suborned by the FBI, acquit this man. The FBI ought to be told by you that they can't tamper with witnesses and evidence, if you believe that to be the fact. [4740] And I am telling you, that's for Sweeney, actually for Sweeney. It is the thing to do today—call the FBI conspirators. It sounds good. A lot of the press like it—some of the press. Smart. The intelligentsia like it, love it.

Now, let us get back to the theory No. 103 as to who did it. This is No. 103. And how was it proved? Well, you start off with the fact that the Catletts had the typewriter, and here is a picture of their hall. You see how these two things follow. The Catletts had it. Here is the hall where they used to keep it. Here is the picture of the back entrance. You see all that space back there, people come in and out there all the time. Then there is the den, then there are the dancers.

Now, what probably happened, Mr. Cross testified, is that somebody, not Chambers—he is too smart, but one of his conspirators, one of his confederates—those are good names, "conspirators," "confederates"—he went up to the Volta Place house and asked innocent Clidi Catlett, "I am the repair man. Where is the machine?"

I can just see it now. It's terrific. You can have this guy coming with a Woodstock hat on, "Woodstock Repair," with a jumper "Woodstock," ringing the bell—no, it isn't a bell, you have to pull that one I think—and saying to Mrs. Catlett, "I am the repair man to fix [4741] the typewriter."

Then Clidi says, "Well, which one do you want? The Remington, the Royal, the L. C. Smith? Which one?

"No. We want the Woodstock."

"Oh, that's over in my boy's house, over at P Street."

And then the next scene, it is the middle of one of these dances. And you see Chambers sneaking in at night, mingling with the dancers, and then typing, typing the stuff, holding the State Department document in one hand—

Oh, Mr. Cross, you got better than that.

Now, how does he prove he didn't take it? He says that he was in favor of neutrality. And Mr. Cross adds another thing to that scene in the Catlett home. He says that is so, because in one of the letters that he wrote to the publishers up in New York, in 1938, when he was translating something for Longman Green, there is the phrase, "I was in Washington on a project." You see, you can see that syllogism. There was that dance, the typewriter, project. You see how it all follows? Poppycock.

But he says that "I did not do it because I was in favor of neutrality; I was in favor, rather, of abolishing the Neutrality Act, changing it; aid to the Allies." What would you do if your fellow conspirator [4742] deserted the conspiracy? Bear in mind that Chambers quit in 1938, April. This business of neutrality is 1939. The day that he quit you become the hottest thing in Washington, you were red hot. You had to get back on some other position. The position then was in order to convince the people in

case they started to think, in case Chambers started to talk—you had to then take the opposite position. So, why wasn't it good tactics to take the opposite Communist position? When in Rome, do what the Romans do. When you are a spy you do what the spies do. You would be an awful spy if you went around with a sign on you. God! This man was good. That is why he was there. That is why he was so good. He pretended to be an American.

Now, the motive, we haven't had the motive yet, and this is the second trial. The motive is missing. Why Mr. Chambers should leave a $30,000 job and accuse Mr. Hiss unjustly—why? The most that Mr. Cross has suggested is that the motive was naughty, it was bad, a bad motive. But what was the motive? What propels him to make all of these charges? Ladies and gentlemen, their just ain't no motive. That is the trouble, there is no motive at all.

[4743] The charge is substantiated. That is the only motive, and that is the truth.

Now I may just say a few words about the documents, the distribution. I promise not to take more than two minutes on the distribution of the documents.

We have an exhibit here (exhibiting) which is a compilation of all of the exhibits in the case. It shows that with the exceptions, one-two (indicating) there is no positive proof that those telegrams did not go to Mr. Sayre's office; no positive proof, and by that I mean these microfilm copies or distribution sheets with the little check marks. On two of those the check mark is missing opposite to Mr. Sayre's initials—on two.

We submit that that was a clerical mistake and that the girl or boy who did that in checking them off accidentally skipped it because it went to everybody else, and you can look at it. That is necessarily so because the one down here with the little asterisk on it also has no check mark against Mr. Sayre's name, but we know that he had it. How? We have a picture of it, a picture of it in the microfilm with Mr. Sayre's stamp and Mr. Hiss's initial.

So we argue that what probably happened in checking off the top five the boy or girl skipped one. [4744] Two are missing.

On this side (indicating) are the documents, the written documents. Ladies and gentlemen, I don't know how they went around the office. It happened in 1938. When we found them in the files we produced the man who found them and that is the way he said they were. That is the way he found them. They were stapled together. Nobody knows how they went. All we know is that they ended up in the instruments themselves or in the microfilm. Are we going to say in 1949 that those did not go to Mr. Sayre? How do we know whether they went or not. We do know that it ended up on the Hiss machine. That we know. It is here.

Now in connection with the documents I am going to give you two little thoughts to take with you. In going over the documents I notice some common typing errors. When you get these documents inside, these Baltimore documents and the standards, you know the Mercy letter and the Timmy Hobson thing, look for similarity of mistakes, and I call to your attention the following combinations "r" for "i", "f" for "g", "f" for "d" and you will see them. You will see the same mistakes on the standards, on the Mercy Hospital letter and on the Timmy Hobson letter, the same characteristics as you do on the Baltimore exhibits.

[4745] And another thing: there is a lot of talk here about no similarity of paper. Never saw the paper. Well, let's see; here is the Bryn Mawr report. That is one of the standards—the Bryn Mawr report. That is the kind of paper Mrs. Hiss had in the house, she said, and there is Baltimore Exhibit 9 (exhibiting). Remember that, Baltimore 9, and the Timmy Hobson letter. Now the Timmy Hobson letter, that kind of tissue paper that comes with dresses, she never saw thin sheets of tissue paper that comes with dresses like the Timmy Hobson letter. The same as the others. The same thing. I guess she makes a mistake once in a while.

Talking about documents, here is Exhibit 32. It is not the way it looked originally; that 3-inch corner was cut out

since the trial started. The defense made a motion to examine a piece of the paper—examine it. I consented. Judge Goddard ordered it. They made a motion; I consented; the Judge said let them have it; they got it—and what is the answer? What did the expert say? Have you heard from the expert? Do you know why you didn't hear? Perhaps it would be another bit of corroboration.

Now, ladies and gentlemen, we come to the golden calf, to the documentary proof. Each of these documents, the typewritten documents, and the handwritten [4746] documents, each has a message; each has the same message identically one with the other. And what is that message? "Alger Hiss, you were the traitor. Alger Hiss, your feathers are but borrowed and you can't change those documents."

Now, they were copied. And what was the damage done? Well, one is quite obvious. Information that was strictly confidential for top level State Department officers was transferred to Russia. That was one damage. That was espionage. But the other—and I think more significant—they were given identical copies of State Department documents originally written in code, our code. So what does a cryptographer do? He just just gets down on his knees and thanks Allah. This is a translation of the code. Now he can break anything. So two things happen. The information was siphoned out and the codes were broken.

Now, ladies and gentlemen, if you want to forget the typewritten documents dismiss them from your minds. That leaves you clear of the Catletts. You don't have to worry then, where was the typewriter on a certain date. Skip that. Just confine your attention to the handwritten documents. There is no question there about this mysterious typing. There is no question of Wadleigh even. You can just forget that [4747] because none of them are dated on January 14. That is the mysterious day that Mr. Sayre took the afternoon off, so you can't assume that Wadleigh stole them on that day. One is even dated—No. 4—when he was on the high seas. Just take those documents—and they are in the handwriting of Mr. Hiss; we have that concession; it took a long time coming, but we got it. In the grand

jury, "Yes" for three; not too sure on one. Why wasn't he sure on one? Because he yet had not known that we had the original document. He could not find it in the State Department. But he didn't know whether we had it, so he wasn't sure. He said until he had seen the enlarged photograph he wasn't sure. Then at the first trial he said he became sure when I put the underlying document in; but now he is sure they were all his, and they were written on the dates on them, January and March 1938.

I call your attention to No. 1. That was the one that was written I think with the conscientious—something about lunch—that was the lunch memorandum. Do you remember that conscientious effort for lunch or something? And that was verbatim. This brilliant fellow needed to make a verbatim copy of a telegram involving a passport fraud. He had to do all of that in order to tell Mr. Sayre at lunch, the man who was [4748] interested in trade agreements, the trade agreement officer. He wrote a book—he was interested in that telegram. That is for Sweeney too. That telegram was copied verbatim, and he could hardly read it. Do you remember when Mr. Sayre had it here, he was under the light—you see, when the Russians got it from the microfilm it was very easy to read. Very easy. And what did it tell the Russians? It told the Russians that a guy named Rubens was a former informer at Riga; one of their own spies was playing footsie with us, one of their spies. And we have not heard from the poor fellow since. We have not heard.

Now, that got back to Russia pretty fast.

And how about the other dealings right after that? Loy Henderson's report. We had the man from the State Department who says there was a press release about the Henderson report but not everything in the press release is from the report; we had to keep something out because it had to do with our dealings with a foreign nation, with the Embassy officials.

Chambers says in 1939, in the Berle report "Who sent Henderson's report back to Moscow? It came from Washington."

Who sent it? Chambers sent it. Where did he get it? From Alger Hiss. That was the start of this. [4749] This baloney about this was a test case, we were going to try to see who was going to win when they arrested an American. Why would he be so detailed? Four words out of 36 copied by an intelligent lawyer, a State Department official almost three years.

And the other he tells you, Lord Chatfield, N.A.; Lord Chatfield told our Naval Attache today.

He had to do that because it wasn't clear whether Chatfield was our Naval Attache or not. Lord Chatfield was the head of the British Navy. He was the first Lord of the Admiralty; and here is a man in the State Department and he didn't know that, that he might have been confused between our Naval Attache and Lord Chatfield.

The memorandum that he made on the top of it before he gets into the bottom part was amply sufficient to tell him if he wanted to tell Mr. Sayre about it. What he did was, he made a note of it, copied it down verbatim, the bottom of the message, so that the Russians would know, and he used our State Department stationery and tore the top off. Why did he tear the top off? Because it had the imprint on it, his imprint "Department of State, Office of Assistant Secretary."

Why should Chambers tear it off? Just imagine if he went back to his boss and said, "Look, I got it. [4750] I got it with the man's own name on it."

Red Star second class. First class work.

Why are they creased? They are creased because that is the way he took them out of the office. Alger Hiss took them out. What would you do with a note that was no longer of use to you? Why, you just take it and crumple it up and throw it away. That is what anybody does. You don't go through this business of creasing it unless you are going to take it out, and that is how it got out. That is how the creases are in it.

He did it because there was something that was going on that day, and he only spent a little time with it, and he did the best he could. For whom? For us? For Russia.

Why? Why did he do it? Because he was in love with their philosophy, not ours. We were not at war then. He was concerned with their philosophy.

And now, ladies and gentlemen, consider again those proofs. Take them with you to the jury room, those photographs; take the machine, the instruments. What do they prove? Ladies and gentlemen, it proves treason, and that is the traitor. And come back with the courage of your convictions and tell this world that our faith in the American jury system is well founded.

Thank you.

THE COURT: We will adjourn until 2:25 p.m.

(Recess to 2:25 p. m.)

[4751] Afternoon Session

THE CLERK: The Court will now charge the jury.

The marshals have instructions to lock the doors and no one will be permitted to leave or enter the room during the charge of the Court.

XXVIII.
CHARGE OF THE COURT

THE COURT: Ladies and Gentlemen of the Jury:

It is fitting now that I should express to you the Court's earnest appreciation of your services for the several weeks that you have been here in this case.

I realize that many of you have had to sacrifice your own business and personal affairs, and I have been impressed with the thoughtful attention which I think you have given to the testimony as it has come from some one hundred or more witnesses.

Now, this indictment, or parts of it, have been read to you, the indictment upon which the defendant Hiss is being tried. But to avoid any possibility of misunderstanding, I advise you that the indictment contains two counts.

It charges in the first count that on December 15, 1948 the defendant Alger Hiss, while testifying under [4752] oath before the Grand Jury of this district when it was conducting an investigation of possible violations of the espionage and other criminal statutes of the United States, wilfully and knowingly testified falsely to a material matter when he testified that neither he, nor Mrs. Hiss in his presence, delivered any confidential documents or papers of the State Department or copies or summaries of State Department documents to Whittaker Chambers or to any other unauthorized person; that in truth, according to the indictment, the defendant Hiss, while in the employ of the Department of State did, in or about the months of February and March, 1938, furnish and deliver to Whittaker Chambers, an unauthorized person, copies of numerous documents, writings and other papers, the originals of which had been removed and abstracted from the possession and custody of the Department of State in violation of Title 18, United States Code, Section 1621.

In the second count it charges that the defendant Hiss wilfully and knowingly testified falsely to a material matter when he testified before the Grand Jury that he did not think he had seen Chambers after January 1, 1937; that defendant then well knew and believed this was untrue in violation of Title 18, United States Code, Section 1621.

[4753] In short, the first count charges that Mr. Hiss committed perjury when he testified that neither he, nor Mrs. Hiss in his presence, had delivered the State Department papers to Mr. Chambers in February or March, 1938; and the second count charges that he committed perjury when he testified that he did not think he had seen Mr. Chambers after January 1, 1937.

The pertinent provisions of Title 18, Section 1621 of the United States Code, which the defendant is charged with violating in each of the two counts, read:

"Whoever, having taken an oath before a competent tribunal, officer or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, wilfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, * * *".

Simply stated, perjury is the wilful giving of false testimony as to a material matter before a competent tribunal while under oath. The law recognizes no excuse for perjury.

Now most of you know that under our law an [4754] indictment is not proof of guilt. It is but an accusation and everyone is presumed to be innocent until that presumption is replaced by proof of guilt beyond a reasonable doubt, and that includes proof of guilt beyond reasonable doubt of every element of the crime charged.

Proof of some of the allegations in the indictment have not been contradicted, namely—that Mr. Hiss did appear before the Grand Jury of this court on December 15, 1948;

that the Grand Jury was investigating possible violations of the espionage laws of the United States; that he was under lawful oath while testifying; and that he testified as set forth in the indictment; and I advise you that his testimony was material in the investigation being conducted by the Grand Jury.

Now the burden is upon the Government to prove beyond a reasonable doubt that the defendant wilfully and knowingly testified falsely when he testified that neither he nor Mrs. Hiss in his presence furnished and delivered to Chambers secret and confidential documents and copies thereof which he had abstracted from the State Department in or about the months of February and March, 1938, as charged in Count I, and the burden is upon the Government to prove beyond a reasonable doubt that at the time he testified before the Grand Jury the [4755] defendant knew and believed that he had seen Chambers after January 1, 1937. The defendant does not have to prove how or from whom Mr. Chambers obtained the documents and handwritten exhibits, for the burden is upon the Government to prove beyond a reasonable doubt that Mr. Hiss or his wife in his presence did deliver and furnish them to Mr. Chambers in or about February and March, 1938.

Now reasonable doubt does not mean a possible doubt or a fanciful doubt. It means a doubt which is reasonable in view of the evidence or the lack of evidence. It is a doubt which a reasonable person has after carefully weighing all the testimony. By my use of the word "weigh" I do not mean the greater number of witnesses nor the larger volume of testimony is to be your criterion. You should be governed by the convincing force of the evidence—to state it very simply—by its quality rather than its quantity.

A reasonable doubt does not mean a doubt arbitrarily and capriciously asserted by a juror because of his or her reluctance to perform an unpleasant task. It does not mean a doubt arising from the natural sympathy which we all have for others. It is not necessary for the Government to prove the guilt of the defendant beyond all possible doubt.

For if [4756] that were the rule, very few people would ever be convicted. It is practically impossible for a person to be absolutely sure and convinced of any controverted fact which, by its nature, is not susceptible of mathematical certainty. In consequence the law says that a doubt should be a reasonable doubt—not a possible doubt.

Now, there has been testimony as to the previous good character of the defendant. You should consider such evidence of good character, together with all the other facts and all the other evidence, in determining the guilt or the innocence of the defendant. Evidence of good character may, in itself, create a reasonable doubt where, without such evidence, no reasonable doubt would exist. But if from all the evidence you are satisfied beyond a reasonable doubt that the defendant is guilty, a showing that the defendant previously enjoyed a reputation of good character does not justify or excuse the offense, and you should not acquit a defendant merely because you may believe that he has been a person of good repute. It may be that those with whom he had come in contact previously have been misled and that he did not reveal to them his real character or acts.

The testimony of a character witness is not to be regarded by you as expressing the witness's personal [4757] opinion of the defendant's character, nor is it to be taken by you as the witness's opinion as to the guilt or innocence of the defendant. The guilt or innocence of the defendant is for you—and you alone—to determine.

Now, if, after a careful and full consideration of all the testimony, and the exhibits, you are convinced of the defendant's guilt, and such conclusion is one in which you yourself would be willing to rely upon and to act upon in the more important matters of your own private life, then it may be said that you have no reasonable doubt.

The fact that the court has denied motions by the defendant to dismiss the indictment is not to be taken by you as an indication that the defendant is believed by the court to be guilty, but it does mean that a case has been

presented which should be decided by a jury. It means that there is enough evidence upon which, if you find it true, you may render a verdict of guilty on both counts of the indictment.

Arguments of counsel addressed to the court upon questions of law or upon motions for the admission or exclusion of evidence are to be disregarded by you. And if any answer of a witness is excluded or stricken from the record, you are to entirely disregard the question and the answer for you may only consider matters [4758] admitted in evidence. Nor may any inference be drawn from the fact that a witness refused to answer questions on the ground that the answers might incriminate him. The reluctance of a witness to incriminate himself may not be used to incriminate another. The situation is to be just as though the questions which the witness refused to answer had never been asked.

You are also advised that depositions taken under oath and introduced in evidence are to be accorded the same weight as testimony given orally in court.

The issues in the case are simple, and I believe that you have a clear idea of what you are to decide. I shall not attempt to refer to the testimony and the evidence except in some instances where it may be necessary to advise you as to the particular law applicable, for unless I repeated it at great length I might seem to be unduly stressing evidence which you believed was not so important and omitting portions which you found influenced you.

You have—each of you—I think, given careful attention to the testimony as it came from the witnesses themselves. You have had a full opportunity to observe the witnesses and you have heard the testimony discussed in great detail by able counsel who have prepared and presented their cases well. The exhibits consisting [4759] of the various documents and papers will be available to you if you wish to examine them.

The court decides questions of law only. The jury decides all questions of fact. You are the exclusive judges of the relative importance and credibility of the witnesses,

That I may refer to some portion of the evidence and not to another should not be taken by you as any indication as to my opinion of the comparative importance or weight of that particular evidence.

If I, or either counsel, have referred to testimony, and if either my reference or that of counsel differs from your recollection of the testimony, follow your recollection. You, as I have said, are the sole judges of the facts.

Now, sharp issues of fact are presented for determination and to a great extent the decisions depend upon the veracity of certain witnesses and the support or lack of support that they receive from other evidence and circumstances. The procedure established by our courts of law and a fair method is to submit issues of fact to a jury of sensible, conscientious and impartial men and women experienced in life's affairs; let them hear and see the witnesses, and then decide the issues. That is the duty you are called upon to perform. It is [4760] an honorable service and an important one for all concerned. Each juror must form his or her judgment solely upon the evidence presented in the court, uninfluenced by anything read in the newspapers or heard on the radio or in private conversation. To reconcile all the testimony is impossible, and it is for you members of the jury, upon careful consideration of all the proven facts and incidental circumstances, to determine what the truth is.

If you find that any witness has made a material misstatement with the intention of misleading you, you may disregard that part of the witness's testimony; you may disregard all of it if you do not believe it, or you may accept part of it if you find part of it is reliable and disregard the rest of it.

You should consider—and naturally would, I think—a witness's demeanor, his background, his or her candor, or lack of candor, possible bias, means of information, and accuracy of recollection. You should consider whether the witness's testimony is supported or whether it is contradicted by other credible testimony or circumstances.

You should particularly consider whether a witness has an interest in the case, for when a witness has an interest in the result, the temptation is strong [4761] to color his or her testimony, or possibly withhold certain facts. Do you believe that testimony has been affected by a personal interest of the witness? And if so—to what extent? You should weigh all these factors in considering how far, and to what extent, such testimony is worthy of credit.

The defendant Hiss has a great interest in the case. Mr. Chambers also has a deep interest in the result. It was Mr. Hiss's denial of Mr. Chambers' testimony before the Grand Jury which led to the defendant's indictment for perjury, so that naturally they both would wish to have their statements sustained. And Mr. Hiss has commenced a suit against Mr. Chambers for libel, and the result here may affect that suit. Their wives also have an interest in the outcome.

The credibility of a witness or party is a matter solely for you, the jury, to decide. Subject the testimony to the same scrutiny that you would subject any important conversation or act. In determining the credibility and the weight to be given to the testimony of witnesses, the Government is to be considered as any other party and its witnesses like any other witnesses. Neither more nor less weight or credence is to be given the testimony of a witness because he or she was called by the Government, whether [4762] the witness be an official or otherwise, than if he had been called by the defendant. Conversely, the same rule applies to the defendant.

The defense has called Dr. Binger, a psychiatrist, and Dr. Murray, a psychologist, for the purpose of attacking Mr. Chambers' credibility. Dr. Binger, basing his opinion upon certain testimony which for the purpose of a hypothetical question he assumed to be true and on his observations of Mr. Chambers while Mr. Chambers was on the witness stand, and Dr. Murray, basing his opinion upon the same hypothetical situation which he assumed to be true, testified that in their opinion Mr. Chambers was a

psychopathic personality and that this tended to reduce his credibility.

As is the case with all expert testimony, these opinions are purely advisory. You may reject their opinions entirely if you find the hypothetical situation presented to them in the question to be incomplete or incorrect or if you believe their reasons to be unsound or not convincing.

An expert does not pass on the truth of the testimony included in a hypothetical question. Similarly he does not, and as a matter of law, he cannot pass on the truth of any part or parts of the testimony of the witness about whose mental condition he expresses [4763] his opinion. Assuming the facts in the hypothetical question to be true, the expert testifies that in his opinion the witness is suffering from a mental disorder which would tend to reduce his credibility in general.

Now, you yourselves have seen and heard Mr. Chambers for several days while he was on the witness stand and you have heard all the evidence. It is for you to say how much weight, if any, you will give to the testimony of the experts—and of Mr. Chambers.

Remember that the important questions that you are to decide are—Did Mr. Hiss commit perjury when he testified

1. That neither he nor Mrs. Hiss, in his presence, passed State Department documents or copies of State Department documents to Mr. Chambers in and around February and March, 1938; and

2. That he did not think he had seen Mr. Chambers after January 1, 1937.

Was Mr. Chambers telling the truth when he testified that he did see Mr. Hiss and that he did receive from him the documents as charged? Those are the questions you must answer. Even though you may accept the expert's opinions as to Mr. Chambers' mental condition, you may still find that Mr. Chambers was telling the truth when he testified regarding those [4764] particular matters.

Now, I have taken pains to keep the real issues clearly before you. And you must be careful to see to it that the testimony on more or less incidental matters does not lead your attention away from the real issues in this case.

In considering the evidence you may and naturally will draw the reasonable inferences and conclusions from the evidence, whether this evidence be a direct statement of the fact or circumstances. For you may not have direct proof of the fact, but you may have circumstances from which you are able to draw reasonable conclusions and deductions.

Circumstantial evidence is evidence that tends to prove or disprove a disputed fact by proof of other facts which have a legitimate tendency to lead the mind to a logical conclusion as to the existence or non-existence of the disputed fact.

Circumstantial evidence is entitled to as much consideration as you find it deserves, depending upon the inferences you think it necessary and reasonable to draw from the circumstances. The law makes no distinction between direct evidence of a fact and evidence of circumstances from which the existence of the fact may be reasonably deduced. Whether a fact is proved [4765] by circumstantial evidence or by direct proof is immaterial, for in either event it must be proved beyond a reasonable doubt.

The Government has produced in evidence as exhibits certain papers which it alleges Mr. Hiss passed to Mr. Chambers. These exhibits have been referred to as the Baltimore Exhibits 1 to 4, inclusive, which are memoranda in the handwriting of Mr. Hiss; Baltimore Exhibits 5 to 47, inclusive, which are typewritten copies and abstracts or summaries of State Department documents; and Baltimore Exhibits 48 to 55, inclusive, which are microfilm reproductions of a number of State Department documents.

Another exhibit was the Woodstock typewriter that was or had been the property of Mr. and Mrs. Hiss. It is the contention of the Government that this is the typewriter upon which Baltimore Exhibits 5 to 47 (with the

exception of Exhibit 10) were typed. This is not contested by the defense but the defense claims that this typewriter was given away when the Hisses moved to the Volta Place house at the end of December, 1937.

Now you will undoubtedly recall that several letters which, according to uncontradicted testimony, were typewritten by Mrs. Hiss on the typewriter then owned by Mr. and Mrs. Hiss, were enlarged and were [4766] placed on an easel—they are over here (indicating)—for comparison with the enlargements of Exhibits 5 through 47. Mr. Feehan, a typewriting expert from the Federal Bureau of Investigation, testified that, in his opinion, Exhibits 5 through 47 (with the exception of Exhibit 10) were all typed on one typewriter and that, in his opinion, there were various defects in the type appearing in the letters allegedly written by Mrs. Hiss which were identical with defects in the type appearing in Exhibits 5 through 47 (with the exception of Exhibit 10) and that, in his opinion, Exhibits 5 through 47 (with the exception of Exhibit 10) were typed upon the same machine that typed the letters allegedly written by Mrs. Hiss.

The general rule is that witnesses are permitted to testify only as to facts and may not express their opinions. An exception to this rule is the opinion of a qualified expert on some particular technical matter. The expert may testify as to his opinion on a subject concerning which he has special knowledge. This is allowed on the theory that the advice of one experienced and versed in technical or special subjects will aid the jury.

You may consider the expert's qualifications and opinion; weigh his reasons, if any, and give his [4767] testimony such weight as you feel it deserves. As previously stated, expert opinion is purely advisory and you may reject it entirely if in your judgment the reasons given for it are not convincing or sound. The determination rests with you—not with the expert.

Now, the law provides that no person may be convicted of the crime of perjury unless the alleged falsity of the

statements made by a defendant under oath be established by the testimony of two independent witnesses or by one witness and corroborating facts and circumstances. In the absence of such proof, the defendant must be acquitted.

The Supreme Court has held, and I quote, "Two elements must enter into a determination that corroborative evidence is sufficient. (1) That the evidence, if true, substantiates the testimony of a single witness who has sworn to the falsity of the alleged perjurious statements; and (2) That the corroborative evidence is trustworthy. To resolve this latter question is to determine the credibility of the corroborative testimony—a function which belongs exclusively to the jury."

As there is but one witness who has sworn to the falsity of the alleged perjurious statement in the first count in this case, it follows that to find [4768] the defendant guilty on Count I, you must believe beyond a reasonable doubt both

A. Mr. Chambers' testimony as to the passing of the documents in or about February and March, 1938; and

B. That there is other trustworthy evidence which substantiates that particular part of Mr. Chambers' testimony.

To find the defendant guilty on Count II, you must believe beyond a reasonable doubt

A. Mr. Chambers' testimony that he met Mr. Hiss after January 1, 1937; and

B. That there is trustworthy corroboration of his testimony as to this meeting or meetings by either

(1) Other evidence as to this particular meeting or meetings

or

(2) Mrs. Chambers' testimony regarding that particular meeting of Mr. Hiss and Mr. Chambers after January 1, 1937.

If you are convinced beyond a reasonable doubt by Mr. Chambers' testimony and by corroborative evidence

that Mr. Hiss did deliver to Mr. Chambers the State Department documents and papers in or about February and March, 1938, you may find the defendant guilty on Count I, even though you have a reasonable doubt on some [4769] other portions of Mr. Chambers' testimony. Similarly, if you are convinced beyond a reasonable doubt by Mr. Chambers' testimony and either by other evidence that corroborates that part of his testimony or by Mrs. Chambers' testimony that the defendant saw Mr. Chambers after January 1, 1937, you may find the defendant guilty on Count II, even though you may have a reasonable doubt on some other portions of Mr. and Mrs. Chambers' testimony.

The corroborative evidence referred to as necessary must be evidence which you find corroborates that portion of Mr. Chambers' testimony which relates to the alleged furnishing and delivery of the State Department documents by Mr. Hiss to Mr. Chambers and/or that portion of Mr. Chambers' testimony that relates to his having met Mr. Hiss after January 1, 1937, and you must believe beyond a reasonable doubt that the corroborative testimony is inconsistent with the innocence of the defendant. Mere corroboration of other parts of Mr. Chambers' testimony would not be sufficient. Corroboration may be supplied either in the evidence presented by the Government (which includes the exhibits) or in the evidence presented by the defendant (which includes the exhibits).

Now, the Government says that the affair was carried on with great secrecy so as to escape [4770] possible detection, and that no one else was present when the alleged acts took place. The Government, however, urges that facts and circumstances have been proved which, it says, fully substantiate the testimony of Mr. Chambers. This is an issue to be determined by you.

If, as to either count, you do not believe Mr. Chambers or if you do believe Mr. Chambers but do not find such corroborating evidence, you must return a verdict of not guilty on that count.

Of course, as to both counts, if you find that the defendant's testimony before the Grand Jury was false as alleged, you must also believe beyond a reasonable doubt that he wilfully testified falsely; that he knew and believed his testimony was false at the time when he testified.

You may find the defendant guilty on both counts or you may find him not guilty on both counts.

If you find that neither the defendant nor Mrs. Hiss in his presence passed the specified documents to Mr. Chambers, then he may not be found guilty of the perjury charged in Count I.

If you find that the defendant did not see Mr. Chambers after January 1, 1937, he may not be found guilty of the perjury charged in Count II.

If you find that Mr. Hiss did not pass the [4771] documents to Mr. Chambers as charged in the indictment and therefore not guilty on Count I, you may still find him guilty on Count II, if you find that he committed perjury when he testified that he thought he had not seen Mr. Chambers after January 1, 1937.

If you find that Mr. Hiss did not see Mr. Chambers after January 1, 1937, as charged in Count II, it would necessarily follow that you must also find him not guilty on Count I, which charges him with testifying falsely when he testified before the Grand Jury that neither he nor Mrs. Hiss in his presence had passed documents to Mr. Chambers in or about February and March, 1938.

Now, if you find that Mr. Hiss committed perjury when he testified that neither he nor Mrs. Hiss in his presence passed the documents to Mr. Chambers, as alleged, and therefore guilty on Count I, you should also find Mr. Hiss guilty on Count II, which charges him with having committed perjury when he testified that he did not think he saw Mr. Chambers after January 1, 1937.

Now, your verdict must be the unanimous verdict of the members of the jury and in announcing it, you are to report your verdict on each of the two counts.

[4772] The jury is composed of twelve citizens and your verdict must represent the decision of each individual juror. The object of the jury system is to secure a unanimous verdict through an exchange of views, reasons, and arguments among the several jurors. And, as you confer in the jury room, opinions should be exchanged. Although the verdict should represent the considered judgment of each person, a juror should not refuse to listen to the arguments of other jurors equally intelligent and equally earnest in the effort to mete out justice.

Now, ladies and gentlemen, if you find that the evidence respecting the defendant is as consistent with innocence as with guilt, the defendant should be acquitted. If you find that the law has not been violated you should not hesitate for any reason to render a verdict of acquittal. But, on the other hand, if you find that the law has been violated as charged, you should not hesitate because of sympathy or for any other reason to render a verdict of guilt, as a clear warning to all that a crime such as charged here may not be committed with impunity. The American public is entitled to be assured of this.

I submit this case to you with confidence that you will faithfully endeavor to render a just verdict.

[4773] Now Mr. Dill and Mrs. Robson, Jurors No. 13 and 14, are excused from further consideration of the case with my very great thanks. And if you will come to the bench later I will see about giving you a little longer time for not serving again.

One thing I wish to say to you before you leave, and it is quite important, and that is I want to caution you two and all of the jurors about talking to anyone about this case. If you observe that, you will save yourself possible embarrassment.

Now I would like to ask counsel to see that the exhibits are gotten in such shape that they may be sent in to the jury if they wish them.

(Four marshals were sworn.)

(The following proceedings were had at the bench, without the hearing of the jury:)

MR. McLEAN: There were one or two exceptions we would like to take, Judge. May we take them outside the presence of the jury?

THE COURT: Oh yes.

MR. McLEAN: We respectfully except to that portion of your Honor's charge in which you charged as a matter of law that the defendant's testimony before the Grand Jury was material to the Grand Jury investigation.

[4774] And we also respectfully except to that portion of your Honor's charge in which you stated that even though the jury finds the defendant not guilty on Count I, they may nevertheless find him guilty on Count II.

And finally, we respectfully except to that portion of the charge which related to the testimony of Mrs. Chambers with respect to the allegation of Count II.

Thank you, sir.

THE COURT: Yes, sir.

THE CLERK: The jurors will be accompanied to the jury room by the sworn officers of the court.

(At 3:10 p.m. the jury retired to deliberate.)

XXIX.

FURTHER PROCEEDINGS RELATING TO REQUESTS OF JURY FOR CERTAIN TESTIMONY AND FOR FURTHER INSTRUCTIONS

[4775] (The jury returned at 5:00 p.m.)

THE COURT: I have this communication from the jury reading:

"Mrs. Hiss testimony; Wadleigh testimony; Catlett testimony.

"Chambers testimony Peterboro trip.

"Mrs. Hiss's letters written on typewriter.

"Papers in evidence 5 to 47, etc.

"Testimony of date when Hisses moved from 30th Street to Volta Place.

"Catletts' *testimony of Catletts,**—when did they move to P Street.

"FBI sample typing."

Now I take it from that you would like to have, first, Mrs. Hiss's testimony and then the Wadleigh testimony and the Catlett testimony and Chambers' testimony. Now the testimony has been written out, I think.

MR. MURPHY: Yes, your Honor. It has all been transcribed.

THE COURT: Would it be satisfactory to have the reporter read from the transcript of the minutes?

MR. MURPHY: It would be agreeable to the Government.

MR. CROSS: Agreeable to the defense.

THE COURT: Then, Mr. Reporter, can you find that?

[4776] THE REPORTER: Yes, your Honor.

(The court reporter read as follows:

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*Italicized words added by Judge Goddard in reading communication.

"PRISCILLA HISS, called as a witness on behalf of the defendant, being duly affirmed, testified as follows:

"Direct Examination

BY MR. CROSS:

"Q. Mrs. Hiss, you are the wife of Alger Hiss?

"A. I am.

"Q. When and where were you born? A. October 13, 1903.

"Q. Where? A. Evanston, Illinois.

"Q. Will you tell us the names of your parents?")

THE FORELADY: Your Honor, it would be sufficient if he comes to the part that we really want. That would be enough.

THE COURT: Do you want to say something?

THE FORELADY: Your Honor, may we go outside and rewrite that and narrow it down to a few words?

THE COURT: You think that you could boil it down a little?

THE FORELADY: I think so, because it will be too much to read back.

THE COURT: It will take some hours I think.

THE FORELADY: It will take a long time.

THE COURT: Yes.

[4777] THE FORELADY: And I think we will save time by rewriting it and tell you the exact information we want. All right?

THE COURT: Yes, very good. All right, then, you may retire, Mrs. Condell, with your fellow jurors.

(Whereupon the jury retired at 5:11 p.m.)

THE COURT: Do you think it would help if you gentlemen step up here and look at the note?

MR. MURPHY: I think we will save a great deal of time if we wait until the jury comes back again.

THE COURT: I thought you might like to look at the note.

MR. MURPHY: Oh, the note.

MR. McLEAN: If your Honor please, this is off the record, so far as I am concerned.

THE COURT: This is all off the record.

(Discussion off the record.)

THE COURT: We will take a little recess until the jury is ready.

(5:30 p. m.)

THE COURT: I have another note from the jury:

"Testimony of Mrs. Hiss giving date of disposal of typewriter to the Catletts. Also date Catlett boy claimed to have received typewriter from the Hisses.

"Testimony of disposal of typewriter by the [4778] Catletts.

"All typewritten material matter written on the Woodstock typewriter including Mrs. Hiss's personal correspondence and F.B.I. sample.

"Above includes all Baltimore exhibits."

Now, that first testimony, can you find that?

THE REPORTER: I found some of that, your Honor. I have not finished looking.

THE COURT: Counsel might get together all the exhibits mentioned here: "All typewritten material written on the Woodstock typewriter including Mrs. Hiss's personal correspondence and F.B.I. sample."

Then it says "Above includes all Baltimore exhibits."

So if you will get those together.

MR. MURPHY: Your Honor, I think the reading of the transcript is not a simple problem at all. For instance, as I understood one of their questions—the disposition by the Catletts of the typewriter. I haven't the vaguest idea what that means. Then it says "the Catlett boy." There just happened to be two.

THE COURT: I am afraid I can't answer your question.

MR. MURPHY: May I suggest, your Honor, that counsel go through the testimony independently and see [4779] whether we can't agree that we can pick out the relevant testimony.

THE COURT: That was along the lines of my suggestion.

Mr. Murphy, I hand you this note so that you and Mr. Cross may look at it together and see if you can't agree on the testimony asked for.

(Discussion off the record.)

THE COURT: I think, if it is agreeable to you gentlemen, we will send in word to the jury that this will take some little time, and in the meantime they will be taken to dinner, in the hope that we will have this information ready for them when they return.

I think the best thing to do now would be to allow the jury to go to dinner, which they are doing, and to come back here when they are finished, which would be about a quarter past seven. In the meanwhile do you think counsel can pick out the passages of the testimony which have been referred to?

MR. MURPHY: I think we can try.

THE COURT: And get dinner?

MR. MURPHY: Well, we can skip dinner.

THE COURT: We will adjourn now until a quarter past seven.

(Recess to 7:15 p. m.)

[4780] (8:00 p.m.)

(The following occurred in the Court's chambers):

THE COURT: Counsel have looked over the transcript of the record and selected the portions which they thought should be read to the jury in reply to their request, and accordingly you will please read to the jury the following pages of the transcript. Give the reporter the marked copy.

MR. RYAN: Mrs. Hiss, page 3342, two-thirds down the page, the fourth question from the bottom beginning "Do you remember, Mrs. Hiss" over to 3344, where it is marked in red.

From 3344 to the bottom of 3348.

3361, the second question marked in double red, down to 3362 in double red.

3424, third question from the top, beginning where marked in red, to 3425.

Pages 3559 to 3561.

3571 to 3573.

(At this point Exhibit 6 x B to be read to the jury.)

MR. RYAN: Page 3586. the last question, and it goes to the top of page 3587, then a gap, and one question and answer, in any event, two questions from the bottom.

Perry Catlett: page 2357, at the top of the page [4781] down to the end of the first answer on 2358.

2365 to 2366.

2367, all the way over to 2371.

2384 to 2385

Raymond Catlett: 2164 to 2165.

2166 to bottom of page.

2171, sixth question, to the red pencil mark at bottom.

2174, to red part.

2197a, one question and answer.

2198, top, down to the middle of page.

2212, to top of 2213.

2216, to the bottom of the page.

2218, top, first question, down to and including the second question.

2220.

2222, one question.

2223, one question.

2233 to 2234.

2270, top of the page, to and including bottom of page 2275.

2292, near the bottom.

(The jury returned to the courtroom at 8:25 p. m., when the following occurred):

[4782] THE COURT: The exhibits that you requested have been sent in to you, and counsel and the Court have been going over the record to find those parts which you wished to have read to you. The reporter will now read:

(The reporter read from page 3342 of the testimony of Priscilla Hiss, beginning, "Do you remember, Mrs. Hiss, when it was" and so forth, down to and including the answer on page 3344: "A pull wagon, that is right.") [supra, p. 2350, line 21 to p. 2351, line 25]

(The reporter then read from page 3347, beginning with the first question near the top of the page:

"Q. Was that some question asked by some attorney before the grand jury? A. That is right." down to and including the question at the bottom of page 3348:

"Q. And was that something that Mr. McLean called to your attention? A. Yes.") [supra, p. 2353, line 33 to p. 2354, last line]

(The reporter then read from page 3361, beginning with the question: "Q. How many typewriters did you have in your home between the years 1932 and 1942?" down to and including the answer on page 3362: "A. Mr. Murphy, I meant that it was pretty much of a wreck, it was not a good typewriter.") [supra, p. 2363 line 5 to p. 2364, line 9]

(The reporter then read from the testimony of Priscilla Hiss, page 3424:

[4783] "Q. Now, is there also the possibility that you left the Woodstock typewriter there?" down to and including on page 3425 the answer near the top of the page ending "but I don't know which I did.") [supra, p. 2403, line 12 to 35]

(The reporter then read from page 3559 beginning with the question, the last near the bottom of the page: "Q. Now when was it, Mrs. Hiss, that you remembered for the first time that you gave that typewriter there to the Catlett boys?" down to and including on page 3561 the answer near the middle of the page: "I did not visualize using it, Mr. Murphy. It was just something I didn't want,

and if they could fix it up, sell, scrap it, it was all right with me.") [supra, p. 2492, line 9 to p. 2493, line 17]

(The reporter then read from the testimony of Priscilla Hiss, page 3571, beginning with the question: "Reading now from 3913, were you asked these questions and did you give these answers:" down to and including the question and answer just below the middle of the page 3573: "Q. Did Timmy use the portable? A. I don't know. I don't think he did very much.") [supra, p. 2499, line 27 to p. 2501, line 5]

(At this point the reporter read Defendant's Exhibit 6 x B.)

(The reporter then read from page 3586 of the testimony of Priscilla Hiss, beginning with the [4784] question: "And in that statement on December 6th, which was 19 days after the papers had been turned over in Baltimore, you told these two agents in the presence of your lawyer that 'I do not recall the make of this typewriter; I do not recall now how I disposed of it.'

"You had given considerable thought to it, hadn't you, at that time or up to that time?" down to and including the answer near the bottom of page 3587: "That is absolutely right. I couldn't recall anything about it.") [supra, p. 2510, line 7 to 30]

(The reporter then read the last question at the bottom of page 3587 of the testimony of Priscilla Hiss as follows: "You knew, of course, that your husband had given a statement to the FBI as early as December 4, made a special trip to Baltimore, didn't you? A. I remember now that he went to Baltimore and I did not know, so far as I can remember, that—yes, I think I must have learned it the day I was with Mr. McLean in the FBI office because he asked for a copy of the statement and said that Mr. Hiss had been given a copy of the statement and that must have been—I must have known about it at that time but I am sure that I did not know anything about his interview in Baltimore." down to and including the answer to the [4785] question just below the middle of page 3588: "Q. You did not know what he had said about the disposition of the

typewriter then, did you? A. I am not sure that I knew what he had said where. I know we had talked about it for a day or two prior to my being in the grand jury," and then continuing down to and including the next question and answer: "Q. I suggest to you, Mrs. Hiss, that you talked about it a day or two prior to the time that Mr. Hiss gave his statement, and a time prior to the time you gave your statement; isn't that correct? A. You may be right, Mr. Murphy, but I have no recollection of it.") [supra, p. 2510, line 31 to p. 2511, line 21]

(The reporter then read from the testimony of Perry Catlett, page 2357, the first question on page 2357 to and including the answer, ending on the fourth line, on page 2358.) [supra, p. 1713, lines 4 to 31]

(The reporter then read from page 2365, ninth question, 21st line, to and including the second answer, ending on line 6, page 2366.) [supra, p. 1718, line 32 to p. 1719, line 2]

(The reporter then read from page 2367, first question, down to and including the ninth question and answer on page 2371, ending "Q. Of course not. You have no way of remembering the exact time; isn't that true? A. No, I don't. If I did, I would [4786] tell you." when the following occurred): [supra, p. 1719, line 24 to p. 1722, line 24]

THE REPORTER: The next is page 2384—

MR. CROSS: Mr. Reporter, there is a question and answer that should be read. The next question.

THE REPORTER: The next question and answer? I had better read the preceding, again.

(The reporter then read as follows: "Q. Of course not. You have no way of remembering the exact time; isn't that true? A. No, I don't. If I did, I would tell you. Q. That is right. And what you told the agent and what he put on the paper there, that it was some time either before or after they moved, that is not correct? A. It was given to me between the time they moved from 30th Street to Volta Place.")

(The reporter then read from third question, line 8, on page 2384, to and including the seventh question and

answer, ending on line 13, on page 2385.) [supra, p. 1730, line 23 to p. 1731, line 16]

(The reporter then read from testimony of Raymond Catlett, page 2164, sixth question, beginning on line 12, to the third question and answer, ending on line 6, of page 2165.) [supra, p. 1584, line 20 to p. 1585, line 2]

(The reporter then read page 2166, third question, beginning on line 14, to the sixth question and answer, ending on line 24, of page 2166.) [supra, p. 1585, line 37 to p. 1586, line 10]

[4787] (The reporter then read sixth question, line 8, page 2171, to and including the 13th question and answer, ending on line 23, page 2171.) [supra, p. 1589, lines 5 to 20]

(The reporter then read from second question and answer, line 4, to and including the seventh question and answer, ending on line 18, of page 2174.) [supra, p. 1590, line 38 to p. 1591, line 11]

(The reporter then read page 2197a: "Q. Now, when is it that you moved into 2728 P Street? A. Well, the best I can get to it is that when I was about 13 or 14 years old.") [supra, p. 1606, lines 33 to 35]

(The reporter then read from page 2198, first question, line 1, to and including the sixth question and answer, ending on line 13, on page 2198.) [supra, p. 1606, line 36 to p. 1607, line 8]

(The reporter then read from page 2212, sixth question, line 15, to and including first question and answer on first line, page 2213.) [supra, p. 1616, line 1 to 12]

(The reporter then read from page 2216, fifth question, line 10, to and including last question and answer appearing on that page.) [supra, p. 1618, lines 21 to 39]

(The reporter then read from page 2218, first question, line 1, to and including second question and answer ending on line 9.) [supra, p. 1619, lines 29 to 37]

(The reporter then read from page 2220, second question, line 3, to and including ninth question and answer, ending on line 17.) [supra, p. 1621, lines 5 to 21]

[4788] (The reporter then read from page 2222: "Q. And then for a short period your present sister-in-law had it? A. Yes, sir.") [supra, p. 1623, lines 1 and 2]

(The reporter then read from page 2223: "Q. And nobody did anything with it until Bernetta used it when she was in school? A. That is right.") [supra, p. 1623, lines 8 and 9]

(The reporter then read from page 2233, third question, line 8, to and including third question and answer, ending on line 6, page 2234.) [supra, p. 1630, lines 3 to 28]

(The reporter then read from page 2270, first question, to and including first answer, ending on line 8, 2272, [supra, p. 1655, line 6 to p. 1656, line 19] when the following occurred):

THE COURT: This is the first trial you are reading from?

THE REPORTER: This is the first trial, yes, your Honor.

(The reporter then read from line 9, page 2272, to and including the last answer on page 2275.) [supra, p. 1656, line 20 to p. 1658, line 26]

(The reporter then read from page 2292: "Q. You say, as I understand it, that the typewriter was given on one of the moves that the Hisses made? A. Yes, sir.") [supra, p. 1669, lines 31 to 33]

THE REPORTER: I think that is all.

THE COURT: That is all the testimony, is it?

THE REPORTER: That is all, your Honor.

[4789] THE COURT: (To jury) Well, this seems to be all the testimony that you requested, and you have the exhibits.

THE FORELADY: I thank you very much.

(Whereupon the jury retired at 9:23 p.m.)

(10:45 p.m.)

THE CLERK: By order of the Court the jury will retire for the evening and the court will adjourn until 10:00 a.m. tomorrow morning.

[4790] New York, January 21, 1950; 10:00 a.m. Trial resumed.

(Court opened by proclamation at 10:40 a.m.)

THE COURT: I have a communication from the jury asking for certain information and instruction, and I will call the jury in.

(Jury entered the courtroom.)

THE COURT: I have this communication from the jury, and it reads as follows:

"Your Honor, without reading the entire charge, will you please define the following: reasonable doubt; circumstantial evidence, acceptable corroborative evidence and their relation to each other."

I will read that part of the charge which I think you refer to. Page 4754 of the record:

(Reading) [supra, p. 3265, line 7 to p. 3266, line 6] "Now the burden is upon the Government to prove beyond a reasonable doubt that the defendant wilfully and knowingly testified falsely when he testified that neither he nor Mrs. Hiss in his presence furnished and delivered to Chambers secret and confidential documents and copies thereof which he had abstracted from the State Department in or about the months of February and March, 1938, as charged in Count I, and the burden is upon the Government to prove beyond a reasonable doubt that at the time he testified before the Grand Jury the defendant knew and believed that he had seen Chambers after January 1, 1937. The defendant does not have to prove how or from whom Mr. Chambers obtained the documents and handwritten exhibits, for the burden is upon the Government to prove beyond a reasonable doubt that Mr. Hiss or his wife in his presence did deliver and furnish them to Mr. Chambers in or about February and March, 1938.

"Now reasonable doubt does not mean a possible doubt or a fanciful doubt. It means a doubt which is reasonable in view of the evidence or the lack of evidence. It is a doubt which a reasonable person has after carefully weighing all the testimony. By my use of the word 'weigh' I do not mean the greater number of witnesses nor the larger volume of testimony is to be your criterion. You should be

governed by the convincing force of the evidence—to state it very simply—by its quality rather than its quantity.

"A reasonable doubt does not mean a doubt arbitrarily and capriciously asserted by a juror because of his or her reluctance to perform an unpleasant task. It does not mean a doubt arising from the natural sympathy which we all have for others. It is not necessary for the Government to prove the guilt of the defendant beyond all possible doubt. For if that were the rule, very few people would ever be convicted. It is practically impossible for a person to be absolutely sure and convinced of any controverted fact which, by its nature, is not susceptible of mathematical certainty. In consequence the law says that a doubt should be a reasonable doubt—not a possible doubt."

[4791] (The Court then continued reading from page 4757, the paragraph reading:) [supra p. 3266, line 29-34] "Now, if, after a careful and full consideration of all the testimony, and the exhibits, you are convinced of the defendant's guilt, and such conclusion is one in which you yourself would be willing to rely upon and to act upon in the more important matters of your own private life, then it may be said that you have no reasonable doubt."

THE COURT: I am going to read now from the record, pages 4764 to 65. That has to do with your question about circumstantial evidence.

(Reading) [supra, p. 3271, line 5-25] "In considering the evidence you may and naturally will draw the reasonable inferences and conclusions from the evidence, whether this evidence be a direct statement of the fact or circumstances. For you may not have direct proof of the fact, but you may have circumstances from which you are able to draw reasonable conclusions and deductions.

"Circumstantial evidence is evidence that tends to prove or disprove a disputed fact by proof of other facts which have a legitimate tendency to lead the mind to a logical conclusion as to the existence or non-existence of the disputed fact.

"Circumstantial evidence is entitled to as much consideration as you find it deserves, depending upon the inferences you think it necessary and reasonable to draw from

the circumstances. The law makes no distinction between direct evidence of a fact and evidence of circumstances from which the existence of the fact may be reasonably deduced. Whether a fact is proved by circumstantial evidence or by direct proof is immaterial, for in either event it must be proved beyond a reasonable doubt."

THE COURT: Next I read from page 4767. That has to do with your question asking for acceptable corroborative evidence and the relation to each other:

[4792] (Reading) [supra, p. 3273, line 5 to p. 3274, line 33] "The Supreme Court has held and I quote, 'Two elements must enter into a determination that corroborative evidence is sufficient. (1) That the evidence, if true, substantiates the testimony of a single witness who has sworn to the falsity of the alleged perjurious statements; and (2) That the corroborative evidence is trustworthy. To resolve this latter question is to determine the credibility of the corroborative testimony—a function which belongs exclusively to the jury.'

"As there is but one witness who has sworn to the falsity of the alleged perjurious statement in the first count in this case, it follows that to find the defendant guilty on Count I, you must believe beyond a reasonable doubt both

"A. Mr. Chambers' testimony as to the passing of the documents in or about February and March, 1938; and

"B. That there is other trustworthy evidence which substantiates that particular part of Mr. Chambers' testimony.

"To find the defendant guilty on Count II, you must believe beyond a reasonable doubt

"A. Mr. Chambers' testimony that he met Mr. Hiss after January 1, 1937; and

"B. That there is trustworthy corroboration of his testimony as to this meeting or meetings by either

"(1) Other evidence as to this particular meeting or meetings

or

"(2) Mrs. Chambers' testimony regarding that particular meeting of Mr. Hiss and Mr. Chambers after January 1, 1937.

"If you are convinced beyond a reasonable doubt by Mr. Chambers' testimony and by corroborative evidence that Mr. Hiss did deliver to Mr. Chambers the State Department documents and papers in or about February and March, 1938, you may find the defendant guilty on Count I even though you have a reasonable doubt on some other portions of Mr. Chambers' testimony. Similarly, if you are convinced beyond a reasonable doubt by Mr. Chambers' testimony and either by other evidence that corroborates that part of his testimony or by Mrs. Chambers' testimony that the defendant saw Mr. Chambers after January 1, 1937, you may find the defendant guilty on Count II, even though you may have a reasonable doubt on some other portions of Mr. and Mrs. Chambers' testimony.

"The corroborative evidence referred to as necessary must be evidence which you find corroborates that portion of Mr. Chambers' testimony which relates to the alleged furnishing and delivery of the State Department documents by Mr. Hiss to Mr. Chambers and/or that portion of Mr. Chambers' testimony that relates to his having met Mr. Hiss after January 1, 1937, and you must believe beyond a reasonable doubt that the corroborative testimony is inconsistent with the innocence of the defendant. Mere corroboration of other parts of Mr. Chambers' testimony would not be sufficient. Corroboration may be supplied either in the evidence presented by the Government (which includes the exhibits) or in the evidence presented by defendant (which includes the exhibits).

"Now, the Government says that the affair was carried on with great secrecy so as to escape possible detection and that no one else was present when the alleged acts took place. The Government, however, urges that facts and circumstances have been proved which, it says, fully substantiate the testimony of Mr. Chambers."

THE COURT: Does that answer your question?

THE FORELADY: Yes, your Honor, thank you.

(Jury retired at 10:55 a.m.)

NOTE: At the time the Court read to the jury the foregoing excerpts from the charge as delivered on January 20, 1950, no copy of the original charge had been given to or was in the possession of the defendant or his counsel.

(The following occurred in chambers without the jury at 11:25 a.m.):

MR. CROSS: If your Honor please, when you read from your charge the parts in which you defined reasonable doubt in answer to the question, as I understand it, which was submitted by the jury, you did not read the two paragraphs beginning on page 4756 with the words "Now, there has been testimony as to the previous good character of the defendant" and particularly the sentence, "Evidence of good character may, in itself, create a reasonable doubt where, without such evidence, no reasonable doubt would exist," and we, in order to have completeness would suggest calling the jury and requesting your Honor to read to them those two paragraphs down to the end of the paragraph [4793] on page 4757 ending with the sentence: "The guilt or innocence of the defendant is for you—and you alone—to determine."

We also ask your Honor to recall the jury and read the sentence on page 4770 which was a part of the paragraph which your Honor read which was omitted in your Honor's reading, which is as follows: "This is an issue to be determined by you."

We also request your Honor to recall the jury and read to them with the other part that we have indicated the following on page 4770:

"If, as to either count, you do not believe Mr. Chambers or if you do believe Mr. Chambers but do not find such corroborating evidence, you must return a verdict of not guilty on that count."

THE COURT: I think, Mr. Cross, that I have answered the question that the jury inquired about. They asked me to define reasonable doubt. I think I have done it and done it fully.

MR. CROSS: I think that the reference that we have given "Evidence of good character may, in itself, create a

reasonable doubt where, without such evidence, no reasonable doubt would exist," is part of the definition of reasonable doubt, and I understand your Honor has refused our request?

[4794] THE COURT: Yes, Mr. Cross.

MR. CROSS: And for the record I would like to save the defendant's exception to the refusal to recall the jury and read the parts requested.

I would also like to take an exception to the part of the charge which was reread, that they could find corroborating evidence in the testimony of Mrs. Chambers as to any meeting after January 1, 1937, first, because we do not think that the Count Two covers more than what is covered in the charging part of the count, namely, February and March 1938, and, secondly, because the evidence in the case clearly shows that Mr. and Mrs. Chambers in no instance testified to the same meeting.

THE COURT: Mr. Cross, that is consistent with your requests to charge and your view of the case.

MR. CROSS: Exactly.

THE COURT: It happens to differ from mine and I hope I am right.

MR. CROSS: Then may we just note an exception so the record will be clear on that?

THE COURT: Yes. When I say that differs from your view of the case or differs from mine, I am not referring to the testimony but I am referring merely to the dates.

MR. CROSS: I had thought that our exception [4795] taken at the end of the charge on that point would very likely cover this point of re-reading, but I want to make sure the record shows the exception. We have an exception?

THE COURT: You certainly may have an exception.

(At 12:55 p.m. the Court said: "Just to announce an adjournment until quarter past two. The jury have gone to lunch.")

(Recess to 2:15 p.m.)

XXX.

PROCEEDINGS RELATING TO VERDICT

[4796] (The jury returned at 2:47 p.m.)

THE CLERK: Will the members of the jury kindly acknowledge their presence as their names are called.

(The clerk called the roll of jurors and all answered "Present.")

THE CLERK: Madam Foreman, have you and the members of the jury agreed on a verdict?

THE FORELADY: Yes, we have.

THE CLERK: How say you?

THE FORELADY: We find the defendant guilty on the first count and guilty on the second.

THE CLERK: Madam Foreman and members of the jury, you will listen to the verdict as it now stands recorded: You say you find the defendant guilty on Count 1 and guilty on Count 2 and so say you all.

MR. CROSS: If your Honor please, may we ask that the jury be polled?

THE COURT: Yes, Mr. Cross.

THE CLERK: Members of the jury, kindly listen to your verdict as it now stands recorded: You find a verdict of guilty on Count 1 and guilty on Count 2:

(The clerk called the roll asking each juror "Is that your verdict?" and each answered in the affirmative.)

[4797] MR. CROSS: If your Honor please, I should like to move that the bail be continued and that the making of motions be reserved until the date that your Honor may later fix for sentence.

MR. MURPHY: Should we excuse the jury first because I would like to be heard on that?

THE COURT: Yes.

I want to thank you all. You have served here for over two months, and as I said it must have been at some sacrifice to your own affairs and business. I think you have given this case thoughtful consideration and made an earnest effort to render, and have rendered, a just verdict. I want to thank you.

One thing I wish to impress upon you is this: You heard me give the other two jurors who were excused a caution about talking to anyone about the case, and I want to repeat that caution. I am sure if you observe that strictly you will save yourselves possible embarrassment. I know, perhaps better than you do, that you may have a number of very likable and fair newspaper representatives approach you, but don't talk about it.

Now having served as long as you have you are entitled to be excused for a longer term than is usual, and all that would like to be excused, if you will come up I will arrange to see that you are excused. I don't mean [4798] to say you won't serve, but if you wish it I would excuse you say for four years.

Do any of you wish to be excused?

(Some jurors: "I don't.")

THE COURT: Those who wish to be excused, if you will come to the bench I will arrange for that.

I want to thank you all and wish you a good rest.

(Jury excused.)

THE COURT: Now, Mr. Murphy, this is a question of sentence, isn't it?

MR. MURPHY: I think under the rules you have the power to commit the defendant, to release him on bail pending sentence, or to pass sentence, and, if your Honor does not wish to pass sentence now, although I would be ready if your Honor wished to—

THE COURT: I think I will wait until next week when I have a little more time to consider. I think it is a reasonable request.

MR. MURPHY: May I ask you to commit the defendant pending sentence?

THE COURT: I think not. How much is his bail?

MR. MURPHY: He is at large now on $5000.

THE COURT: Do you think increased bail is necessary?

MR. MURPHY: Yes, your Honor. I think all [4799] convicted defendants should have their bail increased.

THE COURT: That is the usual attitude of the United States Attorney. What do you have to say, Mr. Cross?

MR. CROSS: I think the record of the defendant here on his bail, and the times that he has lived up to the bail scrupulously, and always asked the Court on a few occasions when he has been out of the district, that certainly speaks for a continuance of the bail of $5000.

THE COURT: I think I will continue him under the present bail, Mr. Murphy. I think I am safe in doing that and I will adjourn the sentencing until say Wednesday. Is that a convenient date for you?

MR. CROSS: I will make it so, your Honor.

THE COURT: A day or two either way does not make a great difference to the Court. I have hearings on Thursday and Friday on reorganizations, and Wednesday would probably be a better time, but I realize you have come from Boston and may have some other matters, so a day or two does not make any difference if you have any particular reason. How about Wednesday, say at 10:30 a.m.?

MR. CROSS: That is agreeable, your Honor.

THE COURT: Bail continued and sentence adjourned until Wednesday, January 25th, at 10:30 a.m.

MR. MURPHY: In this room, your Honor?

[4799a] THE COURT: In this room.

MR. CROSS: If your Honor please, I also made a motion to reserve the making of all motions until the date fixed by your Honor for sentence. Can that be done?

THE COURT: Yes, Mr. Cross.

THE CLERK: The court now stands adjourned.

(Adjourned to Wednesday, January 25, 1950, at 10:30 a.m.)

XXXI.

PROCEEDINGS RELATING TO MOTIONS OF DEFENDANT AFTER VERDICT AND TO SENTENCE

[4800] New York, January 25, 1950; 10:30 o'clock a.m.

THE COURT: Mr. Cross?

MR. CROSS: If your Honor please, on Saturday your Honor allowed the time for filing motions in behalf of the defendant to be extended until the day fixed for the sentence. Now I wish, if your Honor please, to present two motions, one a motion for a new trial and the other a motion in arrest of judgment, both of which I should like to have copied into the record and I will give Mr. Murphy copies (handing).

(Motions referred to are as follows:)

"The defendant moves the Court to grant him a new trial for the following reasons:

"1. The Court erred in denying defendant's motion that the indictment be dismissed.

"2. The Court erred in denying defendant's motion for a judgment of acquittal.

"3. The verdict is contrary to the weight of the evidence.

"4. The Government has failed to introduce any independent evidence which corroborates the witness [4801] Whittaker Chambers.

"5. The Court erred in permitting the witness William Rosen to testify over the defendant's objection.

"6. The Court erred in admitting the testimony of the witness Hede Massing and in denying the defendant's motion to strike her testimony from the record.

"7. The Court erred in denying defendant's motions to strike the testimony of the witness Edith Murray and the witness John Foster Dulles from the record.

"8. The Court erred in charging the jury and in refusing to charge the jury as requested by the defendant.

"9. The Court erred in re-reading to the jury certain portions of its charge and in denying defendant's request that other portions thereof be re-read.

"10. The defendant was substantially prejudiced and deprived of a fair trial by reason of the following circumstances: the attorney for the Government made various inflammatory statements in the course of his argument and also made statements as facts which were not supported by the evidence in the case.

"11. The defendant was substantially prejudiced by the Court's failure to grant defendant's motions and by the Court's failure to sustain defendant's objections [4802] to the introduction of evidence.

"Therefore, it is respectfully submitted that the interests of justice require that the defendant be granted a new trial."

"The defendant moves the Court to arrest the judgment because the indictment does not state facts sufficient to constitute an offense against the United States."

THE COURT: Mr. Cross, these are the grounds that you refer to and they have been quite fully discussed, and your motions are denied.

MR. CROSS: Would your Honor save exceptions to the denial of each of the motions?

THE COURT: Yes, Mr. Cross.

Do you wish to be heard, Mr. Cross, further?

MR. CROSS: The jury returned a verdict of guilty—

THE COURT: May I say I do not mean to suggest that we should discuss or argue further upon these motions because they have, as I said, been discussed very fully.

MR. CROSS: I had not intended to address myself to the motions, if your Honor please, but I do understand your

Honor suggested if I wished to say [4803] anything in behalf of the defendant before your Honor imposes sentence I have the opportunity at this time. Is that correct?

THE COURT: That is quite right.

MR. CROSS: As I have stated, if your Honor please, the jury returned a verdict of guilty and for the present, certainly, we have to and we do accept that as a fact. However, there are certain matters that I feel it my duty, and also privilege, to call to your Honor's attention before imposing sentence in this unusual and very important case.

It is a case that has even greater interest than national interest. It has international interest. People have followed the case perhaps more closely than any other case that has been tried for many, many decades. The final outcome of the case has been awaited by many who have believed, and still believe, in the innocence of Alger Hiss.

As to the matter of punishment, if your Honor please, I think from any corrective standpoint no further punishment would ever have any effect on Alger Hiss. For a year and a half since this matter first broke in August of 1948 he has suffered, his family have suffered.

As to what he has done, certainly since the [4804] Stalin-Hitler Pact in 1939, we have had documentary evidence. His contribution to the interests of the United States, and in fact to our international relations are matters beyond dispute.

As to his financial condition, what little savings he has had were gone long before the conclusion of the first trial, and he borrowed money on notes that are still unpaid before the end of the first trial.

This present trial has been financed, to the extent it has been financed, by loyal friends and loyal Americans who have believed, and still believe, in his innocence. His financial ruin is long since an accomplished fact; a brilliant career ruined, and so I say to your Honor, with all sincerity, that any punishment further than what he has undergone is unnecessary for any effect upon the individual.

As to any exemplary effect of any sentence, the matter of the commitment to jail where a man has undergone the worst punishment, that of mind and heart, that he could undergo, is unnecessary. So I respectfully urge upon your Honor, and I say this against the wishes of my client, because he did not want to suggest anything pointed towards a request for a mitigation of punishment, but I feel it my duty to tell your Honor things that I don't think have ever been told in this courtroom, and I say to your [4805] Honor, what I said to the jury, I have believed, and I still believe, in the innocence of Alger Hiss, but I accept the verdict of the jury. That is our judicial system.

There are only two or three people who know the real facts. The jury believed him guilty or they would not have returned a verdict. They don't know, I don't know, and until the true and complete facts come out there will always be the lingering doubt which was manifested by a hung jury at the first trial by deliberations for 24 hours, and by the manifestation of doubt when the jury came in after some 20 hours and asked that your Honor re-read parts of your charge having to do with reasonable doubt. There were those on the jury, obviously, who had reasonable doubt, and I think even in the face of a verdict of guilty, with this background, and with this history, and with the uncertainty of circumstantial evidence, and with what the defendant has gone through already, that commitment to jail is not necessary and would not serve the best interests of society.

In conclusion I point out what is obvious, and that is that having found the defendant guilty of Count I, unless papers had been mailed to him it must [4806] be that the jury believed that those papers were handed to Mr. Chambers. So you really have one charge, one offense to deal with, I respectfully submit, in imposing sentence.

I want to thank your Honor for the opportunity I have been accorded as a matter of courtesy in appearing in the trial of the case. I have attempted to present all the facts within my command. I have done it, and I did not convince the jury, and I feel that I should tell your Honor frankly that I still believe in Alger Hiss.

THE COURT: Mr. Cross, I am inclined to think that the fact that the jury considered his case for nearly 24 hours or more is not any indication of any snap judgment but does indicate a very full consideration and conscientious effort on the part of the jury to arrive at the right verdict.

Mr. Murphy, do you wish to be heard?

MR. MURPHY: Your Honor, I do not think it is fitting for a prosecutor to be prolix at this time. Your Honor has listened over a great many weeks to all of the facts, and you are as cognizant of them as anyone else.

I do like to add one thought: Mr. Cross has [4807] said that the full facts have not been brought out. Under our system of jurisprudence the defendant has now had two opportunities to bring out the full facts, and I know of no other way than a trial by jury to disclose the full facts. To add now some air of mystery I think is not quite fair. But be that as it may, I think your Honor is sufficiently familiar with the defendant's background and all of the facts in the case so that there is no need for any extended arguments on that, and the Government now moves for judgment. And if your Honor cares to hear it the Government does have a recommendation.

[4808] THE COURT: I should be glad to hear any recommendation the Government wishes to make.

MR. MURPHY: The Government recommends, your Honor, that you impose sentence of five years on each count to run concurrently; and we say that, your Honor, because one of the considerations in imposing sentence is the warning to the public at large, and I think the public should be told that in this country perjury cannot be committed with impunity.

THE COURT: Mr. Cross, I am sure this defendant has had an eminently fair trial. He has been found guilty by a jury that very earnestly tried. It is not a case in my opinion where sentence should be suspended. There should be a warning to all that a crime of this character may not be committed with impunity.

The defendant will stand up.

(The defendant rose.)

MR. CROSS: May he make a statement, if your Honor please?

THE COURT: I beg your pardon?

MR. CROSS: May he under the rule make a very brief statement?

THE COURT: Yes, certainly. You may come up closer if you wish.

MR. HISS: No, there is no need to, unless your [4809] Honor would like me to (approaching bench).

I would like to thank your Honor for this opportunity again to deny the charges that have been made against me. I want only to add that I am confident that in the future the full facts of how Whittaker Chambers was able to carry out forgery by typewriter will be disclosed.

Thank you, sir.

THE COURT: The defendant is sentenced to five years on each count, sentences are to run concurrently.

MR. CROSS: I have certain other motions to present, if your Honor please.

THE COURT: Yes ?

MR. CROSS: First I would like to file the notice of appeal (handing paper.)

MR. MURPHY: It has to be filed with the clerk.

MR. CROSS: If your Honor please, I would like to file a motion in behalf of the defendant—

THE COURT: That is a motion for what, Mr. Cross?

MR. CROSS: For bail, if your Honor please.

THE COURT: I don't quite understand just what you did in connection with the statement relating to appeal.

MR. CROSS: Well, I was handing up appeal papers, and I understand that perhaps it ought to have been filed in the clerk's office.

[4810] But I am now asking that your Honor permit the defendant to be released upon bail in this case, and in

that connection I would respectfully suggest that your Honor continue the surety bail that he has been at liberty under since the indictment. I suggest as a ground for reasonable doubt in this case, one in particular that I shall—

THE COURT: I do not think you need to argue this. So far as I am aware there is no reversible error, but this case has taken a long time and there are very substantial questions of law which have been presented, and I think it would be fair and proper to allow the defendant bail pending any appeal.

MR. CROSS: Will your Honor indicate the amount? May we continue the amount of the present bail of $5000?

THE COURT: What do you think about that, Mr. Murphy? It seems a little low.

MR. MURPHY: Yes. I think as long as your Honor has permitted the defendant to be at large on bail that the amount of bail should be increased in conformity with the practice. I suggest $25,000.

THE COURT: I think that probably that is a little high.

MR. CROSS: I think he might be able to raise $10,000 if it is increased by your Honor to $10,000. [4811] It is now $5000.

THE COURT: I should think $10,000 would be sufficient, Mr. Murphy, but I will hear what you have to say.

MR. MURPHY: Oh no, I yield to your Honor's judgment.

THE COURT: Then the bail will be fixed at $10,000.

MR. CROSS: May the present bond be continued until 4 o'clock so that we can post the bond in the meantime?

THE COURT: Yes. The defendant will be paroled in your custody until 4 o'clock for the purpose of arranging for bail.

MR. CROSS: Thank you.

THE COURT: Now you may come to me later, and I think we might just as well dispose of it now. I think under the usual bail the defendant is not permitted to leave the jurisdiction.

MR. CROSS: Well, that has been religiously observed, if your Honor please. The only two instances where he has been—

THE COURT: I am not criticising anything in the past, but if Mr. Hiss lives in Washington, for instance, that will be out of this jurisdiction and inconsistent with [4812] the terms of bail.

MR. CROSS: Well, if your Honor please, he has lived in New York since 1947.

THE COURT: If he does not intend to leave the jurisdiction we do not need to discuss it.

MR. CROSS: If the occasion ever arises of course application would be made to the Court, as it has been done.

THE COURT: I only brought it up because if that were so it would be better to dispose of it now then later.

There being nothing further the court will adjourn.

XXXII.

MOTION FOR NEW TRIAL

(Set forth in Transcript of Testimony at pp. 3297-3298).

XXXIII.

MOTION IN ARREST OF JUDGMENT

(Set forth in Transcript of Testimony at p. 3298).

XXXIV.

JUDGMENT AND COMMITMENT

(Same Caption)

On this 25th day of January, 1950, came the attorney for the government and the defendant appeared in person and by counsel,

It is adjudged that the defendant has been convicted upon his plea of not guilty and verdict by a jury of guilty of the offense of unlawfully, knowingly and wilfully making false statements under oath, of a material matter, before a Grand Jury of the U. S. District Court, Southern District of New York. Title 18 Sec. 1621 U. S. Code as charged in two counts and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is adjudged that the defendant is guilty as charged and convicted.

It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Five (5) Years on each of counts one and two. Sentences on counts one and two to run concurrently.

Bail increased to $10,000. pending appeal. Paroled in custody of his attorney until 4 PM today to furnish bail.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

HENRY W. GODDARD
United States District Judge.

Filed Jan. 25 1950, U. S. District Court, S. D. of N. Y.

XXXV.

NOTICE OF APPEAL

(Same Caption)

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1. Name and address of appellant:

Alger Hiss, 22 East 8th Street, New York 3, New York.

2. Name and address of appellant's attorneys:

Debevoise, Plimpton & McLean, Esqs., 20 Exchange Place, New York 5, N. Y.

3. Offense:

Violation of 18 United States Code, Section 1621.

4. Judgment and sentence:

Appellant was found guilty of the offense charged by a jury's verdict on January 21, 1950. He was sentenced on January 25, 1950 by the Honorable Henry W. Goddard to 5 years on each count; sentence to run concurrently.

I, the above named appellant, hereby appeal to the United States Circuit Court of Appeals for the Second Circuit from the above stated judgment.

Dated: January 25, 1950.

(s) Alger Hiss

XXXVI.

SUBSTITUTION OF COUNSEL FOR DEFENDANT

(Same Caption)

To: William V. Connell, Clerk,
United States District Court,
Southern District of New York.

Sir:

You are hereby notified that I appear for Alger Hiss, the defendant in the above-entitled action, in substitution for Debevoise, Plimpton & McLean.

Dated: New York, February 17, 1950

Chester T. Lane,
Attorney for Defendant.
70 Pine Street, New York 5, N. Y.
Beer, Richards, Lane & Haller
Whitehall 4-6747

Substitution consented to:

Alger Hiss,
Defendant.

Debevoise, Plimpton & McLean
By Edward C. McLean

JOHN JAY COLLEGE OF CRIMINAL JUSTICE
3 1699 00040 4444

Murrelle Printing Company, Law Printers, Sayre, Pa.
(N. Y. Office 175 Fifth Ave.)

13 269NY2 BR 4933 GBC
07/93 04-344-00